

THE
Crown Circuit
COMPANION;

CONTAINING

The PRACTICE of the ASSISES on the CROWN
SIDE, and of the Courts of General and Ge-
neral Quarter Sessions of the Peace:

Wherein (among other Things incident to the Practice of the
CROWN LAW) is included,

A COLLECTION of Useful and Modern
PRECEDENTS of INDICTMENTS in Criminal
Cases; as well at COMMON LAW, as those
created by STATUTE.

Under all

Which PRECEDENTS, so much of the Common and
STATUTE LAWS is set forth, as to shew the several
Offences; the Offenders Punishment; and in what
Cases FELONS are to have, or not to have the Benefit
of CLERGY.

WITH

References to the Printed AUTHORITIES.

By W. STUBBS, and G. TALMASH, of *Sta-
ples-Inn*, Gentlemen.

The Third Edition, To which is added, *The Clerk of Assise's
Circuit Companion*, and Tables of FEES of the Officers and
Servants belonging to the Judges on the Circuit, usually
taken by them; also many New Precedents of Indictments,
and the Laws continued down to the present Time.

Printed by His MAJESTY's Law Printer, for J. Worrall, at
the Dove, in Bell-Yard, near Lincoln's Inn. M.DCC.LXII.



P R E F A C E.

TH E pressing and repeated Importunities of many of our Friends (Gentlemen in the Practice of the LAW) have at length prevailed upon Us to publish this Work; if it falls short of their Expectations, We hope they'll blame Themselves, and pardon Us; for we had no Intention to appear in Print, had not their frequent Assurances induced Us to believe our Labour wou'd prove a public Benefit.

How Beneficial it may prove, depends entirely upon the Use and Trial of it; therefore We put ourselves upon our Country, and must abide by the Verdict of every unprejudiced and impartial Practicer.

What was chiefly requested, was only to publish Precedents of Indictments; but as the Laws relative to Matters indictable, are more than a Man can carry on his Back, 'tis not to be presumed he can easily bear them in his Head; therefore we have endeavoured to distinguish the various Facts, under the several and respective Precedents, by defining the Offences, and setting forth so much of the Common and Statute Laws, as at one View to demonstrate the Circumstances that create the different

A 2

Crimes;

P R E F A C E.

Crimes; the Delinquents Punishment; how Felons are within, or ousted of the Benefit of Clergy; and also how some Misdemeanours are aggrandized by the late Statutes, and made Felonies. And to render this Book more useful, We have briefly shewn the Practice and Business of the Court of Assises on the Crown Side, and also of the General and General Quarter Sessions; the Appointment of the several Officers attending the Circuit, their Duty, and Fees usually taken by them, together with the Method of drawing up Records of Convictions, and Acquittals, and Variety of Certificates, incident to the Business of the Assises and Sessions of the Peace, and also of estreating forfeited Recognizances, and the Law of appointing the Custos Rotulorum and his Deputy, the Clerk of the Peace, and divers other Matters, relating to the Crown Law; the whole of which is humbly left, and submitted to the Correction of every judicious Reader.

In this third Edition, are added, several Indictments upon Statutes, made since the former, under various Titles, and the Laws continued down to the Present Time.

C O N-

CONTENTS.

O F the Courts on the Circuit	Page 1
Precept for the <i>Oyer</i> and <i>Terminer</i>	5
Precept for the Gaol Delivery	6
Practice and Proceedings at the Assises, on the Crown Side	9
Business after the Assises	16
Certificate of a Judge of Assise, to entitle the Apprehenders of a House-breaker to forty Pounds Reward for Apprehension, &c.	18
Record of an Acquittal, on an Indictment for Felony, at the Assises	21
Practice of the General and Quarter Sessions	25
Precept to Summon the Session	25
What a Session is	26
Notice of putting in Bail	34
Costs upon Defendant's Conviction	36
Certiorari granted in Vacation	36
Recognizance to be taken before a Judge	37
Notice to try a Traverse	39
Affidavit of the Service	40
Notice of Pleading Guilty to an Indictment, for an Assault	43
A Bench Warrant, upon an Indictment being found	45
A Certificate of a Person's standing Indicted	46
Subpoena for Witnesses to give Evidence, at the Sessions of the Peace	46
Pleas of Misnomer	47
A Certificate of a Conviction for Burglary	48
	A

CONTENTS.

A Certificate to discharge a Person from Parish Offices, &c.	49
Assignment of a Certificate (for Conviction of a Felon) by Indorsement	51
Method and Form of Estreating Issues, Fines, &c.	52 to 57
Caption of a Session of Oyer and Terminer, and Gaol Delivery	57, 58
Method of obtaining a <i>Quietus</i> , for an Estreated Recognizance, &c.	61
Certificate, where the Party is bound to Answer, and no Indictment exhibited	62
———where the Party neglects to prosecute, and give Evidence	63
———where the Party neglects to appear at the proper Session, he is bound to Answer, and comes at a Session Subsequent	64
When Clerks of the Peace are to deliver their Estreats	65
Record of Acquittal for Felony, where the De- fendants are under Recognizance to appear	66
———of Conviction for Felony and Robbery, where the Defendant is in Custody	69
———of the Discharge of a Recognizance, at the General Quarter Session of the Peace	73
———of Conviction of a Person for keeping a disorderly House	75
Office of <i>Custos Rotulorum</i>	80
Oath of the Clerk of the Peace, and his Appoint- ment, by the <i>Custos Rotulorum</i>	84
Doctrine of Indictments	86

C O N T E N T S.

*Precedents of Indictments under the following
Titles, viz.*

A CCESSARY	100	Inmates	323
Alehouse	107	Larceny	325, 329
Arson	108	Lead	330
Affault	109	Libels	334
Bail	131	Linen	338
Bankrupt	134	Lodgers	340
Barratry	144	Lotteries	341
Bastardy	145	Maiming	344
Bigamy	147	Marriage	346
Black Act	150	Murder	347
Buggery, &c.	163	Naval Stores	361
Burglary, &c.	165	Notes	364
Church Yard	168	Nuisance	366
Coining	171	Perjury	394
Compounding Felony	180	Piracy	439
		Poison	444
Conspiracy	182	Poor	447
Constable	202	Prison	450
Coroner	213	Rape	455
Cottages	214	Rescue	457
Deceit	217	Riot	464
Escape	241	Robbery	473
Extortion	249	Sacrilege	477
Forcible Entry	255	Seditious Words	478
Forestallers, &c.	261	Serge, &c.	481
Forgery	265	Servants	485
Gaming	311	Sheep	487
Guns	318	Ships	490
Horse Stealing	319	Shop, &c.	493
House Breaking	320	Smugglers	495
Houses	321	Soldiers	502
Imbezzlement	322	Stolen Goods	505
		Trade	

C O N T E N T S.

Trade	507	Usury	519
Transportation	508	Windows	526
Treason	511	Women	527
Turnpike	517		

Clerk of Assise's Circuit Companion.

The Office of a Judge's Cryer of the Court	531
The Sheriff's Business at the Assises	541
The Coroners Business at the Assises	542
Fees taken by the Judges Marshals	544
— taken by the Cryers to the Judges	546
— claimed by the Judges Clerks, &c.	548
— of the Clerk of Assise, &c. in the Midland Circuit	553
— taken by the Associate for himself, &c.	556
— taken by the Clerk of Assise and Arraigns for the Northern Circuit	562
— of the Crown and Gaol Delivery	558
— claimed by the Associate	565
— due to the Clerk of Assise, &c. in the Oxford Circuit	568
— taken by the Clerk of Assise of the Western Circuit	574
The Table	577
	582

T H E

OF THE
C O U R T S
ON THE
C I R C U I T.

AS Matters of Fact are triable by Juries of the respective Counties, wherein the Facts arise, it would be very inconvenient to compel the Juries and Parties, upon all Occasions, to attend on the King's Courts at *Westminster*: Therefore, for the Ease of the Subject, Commissions are issued out twice every Year; some for trying only, others for trying and finally determining all Matters cognizable by Virtue of such Commissions, arising in each respective County.

The Progress of the Judges under these Commissions, is commonly called the Circuit, and the Court held by Virtue of them, is vulgarly called the Assises from one of the commissions they were generally armed with; which originally only concerned Titles to Land, though by several Statutes the Justices of Assise have Cognizance of certain criminal Matters; but their principal and most extensive Authority in those Cases is by Virtue of the Commission of Oyer and Terminer, and Commission of Goal-Delivery.

The *Circuits* in *England* are six, viz. the *Northern*, the *Western*, the *Oxford*, the *Norfolk*, the *Midland*, and the *Home Circuit*. The *Circuits* for *Wales*

B

are

are two, viz. one for *North*, and another for *South Wales* ; for each of which,

By the Stat. 18 Eliz. cap. 8. The King may appoint two Persons Learned in the Laws, to be Judges in each of the Welch Circuits, which had but one Justice before, and grant Commissions of Association, &c. (See Stat. 34 & 35 H. 8. c. 26.)

The Judges are to be attended by the Sheriff of each County, and his under Officers, &c. If he is absent, or negligent in his Duty, the Judges may fine him.

The Judges on *Circuits* sit by Virtue of five several Commissions :

- I. *A Commission of Oyer and Terminer.*
- II. *A Commission of General Gaol-Delivery.*
- III. *A Commission of ASSISE.*
- IV. *A Commission, or Writ of Nisi Prius.*
- V. *A Commission of the Peace in every County of their Circuit.*

A Commission is a Delegation by Virtue of the Common Law, or of an Act of Parliament, whereby Jurisdiction, Power, and Authority is confer'd on others.

The Commission of *Oyer and Terminer* is directed to the Judges, and several Gentlemen of the County ; but the Judges are to be of the *Quorum* ; so as the rest cannot act without them. (See *Stat. 2 Ed. 3. c. 3.*) By Virtue of this Commission they have Power to hear and determine Treasons, and all Manner of Felonies and Misdemeanors—for the Authority given of Commissions of *Oyer and Terminer* is, *to hear and determine.*

The Commission of General Gaol Delivery is directed only to the Judges themselves, and the Clerk of Assise Associate. By Virtue of this Commission they have Power to try every Prisoner in the Gaol, committed for any Offence whatsoever ; but none but Prisoners in the Gaol ; so that one Way or
other

other they rid the Gaol of all the Prisoners. They proceed upon Indictments taken before Justices of the Peace at their Quarter-Sessions (of Grand Larcenies, &c. and other high Offences *, not proper to be trusted to the Determination of Country Magistrates) as well as upon Indictments taken before themselves.

By the *Stat. 8 R. 2. c. 2.* it was enacted, that no Men of the Law should from thenceforth be Justice of Assise, or of the common Deliverance of Gaols in his own County. And by the *Stat. 23 H. 8. c. 24.* it was enacted, that no Justice, or other Man Learned in the Law, should exercise the Office of Justice of Assise within any County, where he was born or inhabited, upon Pain to forfeit 100*l.* But these Statutes having been construed to extend not only to Justices of Assise and Justices of Gaol Delivery, but also to Justices of *Nisi Prius*, and Justices of Oyer and *Terminer*; which Construction being attended with great Inconveniencies, it was by the *Stat. 12 Geo. 2. c. 27.* enacted, that it should be lawful for the Chief Justice and Justices of either Bench, and the Chief Baron, and other Barons of the Court of Exchequer, and any other Person or Persons learned in the Law, who should be appointed Justice or Justices of Oyer and *Terminer*, or Gaol-Delivery, in any County or Counties in *England*, to exercise the Office or Offices of Justice or Justices of Oyer and *Terminer* or Gaol-Delivery, in any such County or Counties; notwithstanding They, or any of Them, shall have been born or do inhabit within such County or Counties, and that they shall not

* That is, the Magistrates chuse to act with Caution, but not for Want of Authority. And six Indictments found at Sessions do not go to the Assises throughout *England*; whereas the Judges now expect the Justices of the Peace not to trouble them with Grand Larcenies.

be liable, for so doing, to the said Penalty of 100*l.* or any other Penalty whatsoever.

All the Justices of the Peace of that County where the Judges have their Assises, are bound to be present, and if they make Default, without lawful Impediment, the Judges may set a Fine upon them for their Neglect.

If Justices sit by Force of a Commission, and do not adjourn the Commission, it is determined. Those that sit by Virtue of a Commission are not counter-manded by any new Commission, unless the new Commission be shewed unto them, or proclaimed in the County, or unless the new Commissioners do sit by Force of the new Commission. (*See the Stat. 2 & 3 Ph. & M. c. 18.*)

By the Stat. 1 Ann. Stat. 1. c. 8. *No Commission of Assise, Oyer and Terminer, General Gaol-Delivery, or Association, Writ of Si non omnes, or Assistance, or Commission of the Peace, shall be determined by Death of the King, but shall continue six Months, unless superseded, &c.* (*See Stat. 7 & 8 W. 3. c. 27.*)

See Stat. 14 H. 6. c. 3. for holding the Assises at Carlisle for the County of Cumberland; Stat. 1 Geo. 1. c. 45. for holding the Assises for the County of Cornwall; and Stat. 21. Geo. 2. for holding the Assises at Buckingham.

The Judges of *Assise*, by Virtue of their Commissions of *Oyer and Terminer*, and General Gaol-Delivery, make out Precepts under their Seals, directed to the Sheriffs of each County, for the respective Purposes therein contained, which Precepts are delivered to every Sheriff, at least fifteen Days before the Return of the same; the Forms of which Precepts are as follow :

Precepts

Precept for the Oyer and Terminer.

Kent. **S**IR *Michael Foster*, Kt. one of the Justices of our Lord the King, assigned to hold Pleas before the King himself, and *Edward Clive*, Esq; one of the Barons of his Majesty's Court of *Exchequer*, Justices of our said Lord the King*, assigned by Letters Patent of our said Lord the King, under the Great Seal of *Great Britain*, to us and others, and any two of us, made to inquire more fully the Truth, by the Oaths of good and lawful Men of the County of *Kent*, and by other Ways, Means and Methods, by which we shall or may better know (as well within Liberties as without) by whom the Truth of the Matter may be better known and inquired into, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms and Dominions whatsoever; and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, and Conventicles, unlawful uttering of Words, Assemblies, Misprisions, Confederacies, False Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenance, Oppressions, Champerty, Deceits, and all other evil Doings, Offences and Injuries whatsoever; and also the Accessories of them, within the County aforesaid (as well within Liberties as without) by whomsoever, and in what Manner soever done, committed or perpetrated, and by what Person or Persons, to what

* The Practice varies; sometimes the Clerk of Assise's Name is put in this, sometimes in the others; and the Clerk of Assises, without the Judges, signs one another.

Person or Persons, when, how, and after what Manner; and of all other Articles and Circumstances concerning the Premises, and every of them, or any one or more of them, in any Manner whatsoever; and the said Treasons, and other the Premises according to the Laws and Customs of *England*, for this Time to hear and determine. *To the Sherifff* of the County aforesaid, greeting: On the Behalf of our said Lord the King, we command you, that you omit not for any Liberty within your Bailiwick, but that you cause to come before us and others our Fellow Justices aforesaid, or any two or more of us, at *Maidstone*, in the said County, on *Monday* the Day of *March* next ensuing, twenty-four, as well Knights as other good and lawful Men of your Bailiwick, to do and receive all those Things, which on the Behalf of our said Lord the King shall be then and there enjoined them; and that you yourself, and your Under-Sheriff be then and there in your Persons, together with your Bailiffs and other your Ministers, to do those Things which to your and their Offices appertain in this Behalf to be done; and that you have then and there the Names of the Jurors, and this Precept. Dated under our Hands and Seals at *Westminster*, the Day of *February* in the Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain, France and Ireland*, Defender of the Faith, &c.

Precept for the Gaol-Delivery.

Kent. **S**IR *Michael Foster*, Knt. one of the Justices of our Lord the King, assigned to hold Pleas before the King himself, and *Edward Clive*, Esq; one of the Barons of His Majesty's Court of *Exchequer*, Justices of our said Lord the King, assigned to take all the Assises, Juries, and Certificates,

ificates, before whatsoever Justices arraigned, as well by diverse Writs of the Lady *Anne*, first of *England*, &c. and afterwards of *Great Britain*, &c. late Queen, and also by diverse Writs of our Lords *George the First* and *Second*, late Kings of *Great Britain*, &c. as by diverse Writs of our now Lord the King, in the County of *Kent*. To the Sheriff of the said County greeting: On Behalf of our said now Lord the King, we Command you, that you omit not for any Liberty in your Bailiwick; but that you cause to come before us at *Maidstone* in the said County, on *Monday* the Day of *March* next ensuing, all Writs of Assise, Juries, and Certificates, before whatsoever Justices arraigned, as well by divers Writs of the Lady *Anne*, first of *England*, &c. and afterwards of *Great Britain*, &c. late Queen, and also by diverse Writs of our Lords *George the First* and *Second*, late Kings of *Great Britain*, &c. as by diverse Writs of our said now Lord the King, in your County; together with the Panels, Attachments, Re-attachments, Summons, Re-summons, and all other Minuments whatsoever, any ways concerning those Assises, Juries, and Certificates; *provided always*, that the Attachments, Re-attachments, Summons, and Re-summons thereof, be made fifteen Days before the said *Monday*: And also that you cause to come before the said Sir *Michael Foster*, Kt. and *Edward Clive*, Esq; Justices of our said now Lord the King, assigned to deliver his Gaol of the County aforesaid of the Prisoners therein being, at the Day and Place aforesaid, all the Prisoners being in the said Gaol, together with their Attachments, Indictments, and all other Minuments any ways concerning those Prisoners, and of the *Venue* of every Town and Place where the Felonies were committed, whereof the said Prisoners are indicted, appealed, or arrested, as well within Liberties as without, twenty

and four, as well Knights, as other good and lawful Men of every Hundred in the said County, by whom the Truth of the Matter be the better known and inquired into, and who have no Affinity to those Prisoners; together with four selected Men of those Towns and Places, to do those Things, which on the Behalf of our said now Lord the King shall be then and there enjoined them. *Publicly* also cause to be proclaimed throughout your whole Bailiwick, That all they, who will Prosecute against those Prisoners, be then and there to prosecute against them, as shall be just. *Give Notice also* to all Justices of the Peace, Mayors, Coroners, Escheators, Stewards, and also all Chief Constables and Bailiffs of every Hundred and Liberty within your County, that they be then and there in their own Persons, with their Rolls, Records, Indictments, and other Remembrances, to do those Things which to their Offices in that Behalf appertain to be done: And that you yourself and your Under-Sheriff, together with your Bailiffs and other your Ministers, be then and there, in your own Persons, to do those Things which to your and their Offices appertain in this Behalf to be done. And have you then and there the Names of the Jurors, Justices of the Peace, Mayors, Coroners, Escheators, Stewards, Bailiffs, Chief Constables, and of them whom you shall so cause to come, before whom, and by whom you shall so cause to come. And that you also then and there have this Precept. Dated at *Westminster* the 12th Day of *February* in the Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain, France and Ireland*, Defender of the Faith, &c.

T H E

THE
PRACTICE and PROCEEDINGS
AT THE
A S S I S E S
ON THE
C R O W N S I D E.

WHEN the Judges first come into the Court, the Crier makes the following Proclamation *, O yes, O yes, O yes : *My Lords, the King's Justices, do strictly Charge and Command all Manner of Persons to keep Silence, while the King's Commissions of Assise and Nisi Prius, Oyer and Terminer, and General Gaol-Delivery for this County of Berks, are openly read, upon Pain of Imprisonment.*

Then the Clerk of the Assise, or the Clerk of the Arraignment, reads the several Commissions before-mentioned.

After the Commissions have been read, the Crier says to the Sheriff thus ; *Sheriff of the County of D. return the several Precepts and Writs of Assise and Nisi Prius, to you directed, and returnable here this*

* This is really the *French* Word *Oyez*, from *Ouir*, to hear ; it is pronounced three Times before all Proclamations, and the Use of it is to bid the People hear and observe what the Officer is about to say.

Day, that my Lords, the King's Justices, may proceed thereon: which the Sheriff does accordingly.

Then the Clerk of Assise calls the *Nomina Ministrorum*, namely, the Justices of the Peace, Coroners, Stewards, Bailiffs, Constables, &c.

And then the Grand Jury are called in order, every one by his Name, and when they appear, they are sworn by the Marshal.

The Foreman, by himself, lays his Hand on the Book, and the Marshal administers to him the following Oath.

You, as Foreman of this Inquest, shall diligently inquire, and true Presentment make, of all such Matters and Things as shall be given you in Charge: The King's Counsel, your Fellows, and your own, you shall keep secret: You shall Present no Man for Envy, Hatred, or Malice; neither shall you leave any Man Unpresented for Fear, Favour, or Affection, or Hope of Reward; but you shall Present all Things truly as they come to your Knowledge, according to the best of your Understanding: So Help you God.

The Rest of the Grand Jury, by Three at a Time, in Order, are sworn in the following Manner.

The same Oath which your Foreman hath taken, on his Part, you, and every of you, shall well and truly observe and keep on your Part: So Help you God.

Then Proclamation is made to keep Silence while the Judge gives his Charge to the Grand Jury.

This is the most Part of the Business of the Morning of the first Day.

The Clerk of the Assise, or his Officer the Clerk of the Arraignment, files all Recognizances, &c. delivered by the Justices in Court; such as are to prosecute upon one File, and such as are to answer upon another; and receives all the Informations
and

and Examinations that have been taken by the Justices of the Peace, &c.

In the Afternoon, the Court sends for the Grand Jury, and when they appear, the Clerk of Assise calls them severally by their Names, and says, *Gentlemen, have you agreed upon any Bills;* and the Clerk of Assise bids them present them to the Court; and upon the Delivery of them he saith:

You are content the Court shall amend Matter of Form, altering no Matter of Substance, without your Privy, in those Bills you have found.

The Grand Jury say, *Yes;* and return to their Business again, viz. examining other Bills.

Then the Court proceeds to arraign such Prisoners as are indicted, in the Manner following:

The Clerk of the Arraigns says, *A. B. hold up your Hand: Thou standest indicted by the Name of A. B. late of, &c. for thou, &c.* so reads the Indictment through, and then asks the Prisoner, *Art thou Guilty or Not?* If he says, *Not Guilty;* then the Clerk of Arraigns says, *How wilt thou be tried?* If he says, *By God and the Country;* then the Clerk says, *God send you a good Deliverance,* and then writes over the Prisoner's Name, on the Indictment, (*pu. se.*) which signifies, that he puts himself upon the Country; so proceeds to the next, until so many are arraigned, as will serve for a Petty Jury to pass upon at once.

If upon Arraignment a Prisoner pleads *Guilty,* then the Clerk of the Arraigns writes over the Name, on the Indictment, (*confesses*) and the Prisoner is set aside 'till the Time of giving Judgment.

When a sufficient Number of Prisoners are arraigned to be tried by a Petty Jury, then the Clerk of the Arraigns calls the Jury thus; *You good Men that are impanelled to try between our Sovereign Lord*
the

the King and the Prisoners at the Bar, answer to your Names, upon Pain and Peril that shall fall thereon.

When the Jurors have appeared, then the Clerk of the Arraignment calls the Prisoners to the Bar, that are to be tried by the Jury, and says unto them thus ; *These good Men that were last called, and have appeared, are those that shall pass between our Sovereign Lord the King and you, upon your several Lives and Deaths; if therefore you, or any of you, will challenge them, or any of them, your Time is to speak as they come to the Book to be sworn, before they are sworn, and you shall be heard.*

Then the Crier makes Proclamation, and says ; *If any Man can inform my Lords the King's Justices, the King's Serjeant, or the King's Attorney, or this Inquest to be taken between our Sovereign Lord the King and the Prisoners at the Bar, of any Treason, Murder; Felony, or other Misdemeanor, committed or done by them, or any of them, let them come forth, and they shall be heard; the Prisoners stand at the Bar upon their Deliverance.*

Then the Clerk calls the Jury to be Sworn every Man severally, and the Marshal swears them all in this Manner ;

You shall well and truly try, and true Deliverance make, between our Sovereign Lord the King and the Prisoners at the Bar, whom you shall have in Charge, and a true Verdict give according to your Evidence; so help you God.

Then the Crier Counts the Jurors, as the Clerk of Arraignment reads their names, and asks them if they are all sworn.

Then the Clerk of the Arraignment calls the Prisoner named in the first Indictment, to the Bar, and bids him hold up his Hand, and then says to the Jury ;

Look upon the Prisoner, you that are sworn, and barken to his Cause.

A. B. stands indicted by the Name of A. B. &c. (reading the whole Indictment as he did upon the Arraignment) and then says; *Upon this Indictment he hath been arraigned; upon his Arraignment he hath pleaded Not Guilty; and for his Trial hath put himself upon God and the Country, which Country you are; so that your Charge is to inquire, whether he be guilty of this Felony, whereof he stands indicted, or not guilty; if you find him guilty, you shall inquire what Lands, Tenements, Goods, and Chattels he had at the Time of the Felony committed, or at any Time since; if you find him not guilty, then you shall inquire if he did fly for it, or not; if you find he did fly for it, then you shall inquire what Goods and Chattels he had, at the Time when he did fly for it, or at any Time since; if you find him Not guilty, and that he did not fly for it; say so, and no more, and hear your Evidence.*

And then the Court proceeds to examine the Witnesses, upon Oath, as well for the King as for the Prisoner.

The Proceedings against the rest of the Prisoners are the same, with this Difference only, viz.

The Clerk of Arraignment, after having read over the Indictment, says; *Upon this Indictment he hath been arraigned. Upon this Arraignment he pleaded Not Guilty; and for his Trial hath put himself upon God and his Country, which Country you are; so that your Charge is to inquire, whether he be guilty of this Felony whereof he stands indicted, or not guilty? And farther to inquire of him, as you had in Charge to inquire of the former Prisoner, and hear your Evidence.*

Then the Witnesses are called, sworn and examined as before.

When the Jury are agreed on the Verdict, the Clerk of Arraignment calls them by their Names, and asks them *if they are agreed on their Verdict, and*
who

who shall say for them, and calls the first Prisoner to the Bar, and bids him hold up his Hand. Then says to the Jury; Look upon the Prisoner; you that are sworn, what say you, is he guilty of the Felony whereof he stands indicted, or not guilty? If they say Guilty, then the Clerk asks them, what Lands or Tenements, Goods or Chattels, he (the Prisoner) had at the Time of the Felony committed, or at any Time since. The Jury's common Answer is, None to our Knowledge. When the Jury say Not Guilty, then the Clerk asks if he (the Prisoner) did fly for it, or not. If they find a Flight, it is recorded; but their common Answer is, not to our Knowledge.

And so the Clerk of Arraignment proceeds to every Prisoner particularly, which the Jury hath in Charge, writing after the Words (*pu se.*) over the several Names of the Prisoners, *Guilty, or Not Guilty*, as the Verdict is, and then says to the Jury, *Harken to your Verdict, as the Court recordeth it; and then he repeateth it in this Manner; You say A. B. is guilty of the Felony whereof he stands indicted; and that he hath no Goods nor Chattels: That C. D. is not guilty; and so of the Rest; and then concludes; And so you say all.*

Note, That in all Indictments for Trespasses and Misdemeanors (under the Degree of Felony) the Parties indicted are either in Prison, or bound to appear by Recognizance; upon their Appearance, are not to be tried till after the Felons.

When the Grand Jury is discharged, such Persons, in Gaol, that are not indicted, and such as are, but the Bills not found to be true, are delivered by Proclamation; and such Persons that are bound to appear to answer, and no Prosecution exhibited against them, are discharged of their Recognizances.

Note; One of the Clerks belonging to the Clerk of Assise, that keeps the Gaol Book, in the Beginning

ning of the Assises, sets down in the Book a Note of the Day, when the Assises are holden, and the Judges Names, under which he sets down the Prisoners Names, as they are returned by the Sheriff in the Calendar, beginning with the Reprieves, formerly left in Gaol, if any, and the Rest in Order, leaving a reasonable Distance betwixt every Name; and also of all Bails, for which Recognizances are returned by the Justices.

When any Indictment is found against any Prisoner, and he arraigned thereupon, the Clerk sets down briefly the Offence, at the End of the Name; and enters after Trial, the Plea and Verdict, as wrote on the Indictment;

And enters all Orders made in Court, for Continuance of any Man in Prison, or sending any to the House of Correction: all Fines set upon Prisoners, for Trespasses, &c. all Defaults upon Recognizances to answer, and all Submissions, &c.

The Clerk of Assise makes four Calendars of the Delivery of the Gaol; of the Names of such as are to suffer Death; such as were burnt in the Hand; such as are to be transported; such as are to be whipt; and so on according to the several Judgments: one of which Calendars is signed by the Judge, and delivered to the Clerk of Assise; one other is signed by the Clerk of Assise, and delivered to the Judge; the third to the Sheriff; and the fourth to the Gaoler.

Before a Defendant can be tried on any Traverse at the Assises, he must first go to the Clerk of the Assise, and take out a Copy of the Proceedings, drawn up of Record, for which he pays so much *per Sheet*; and must also sue out a *Venire* with the Clerk of the Assise. And *Note also*, if any *Subpœna's* are wanting, the Clerk of Assise grants them.

When you have obtained your *Venire*, you must carry it to the Under-Sheriff, who will return a
Jury,

Jury, and then you must enter your Traverse with the Judge's Marshal.

If a Defendant can be prepared, and is minded to try an Indictment against him at the same Assises, 'tis prefer'd upon paying for a Copy of the Proceedings, and entering the Traverse as above-mentioned, and then he may go on.

Every Defendant indicted for a Misdemeanor, should give full eight Days Notice of Trial to the Prosecutor, before the Assises.

All *Certiorari's* brought by Prosecutors or Defendants, to remove Indictments, are allowed by the Clerk of the Assise, who returns them into the *Crown Office*, where the Record is made up for Trial, by the proper Clerk of the County, and sent down to the next Assises, to be tried on the *Nisi Prius* Side.

The BUSINESS after the ASSISES.

The Clerk of Assise puts all such Persons into Process, who were indicted or presented at the last Assises, and did not appear and plead, and enters their Names in a Process Book.

He ingrosses the Process upon Parchment, and delivers them to the Sheriff, in convenient Time after the End of the Assises, that the Sheriff may have sufficient Time to execute the same.

Note ; The Process are in Felony, &c.

1. *A Capias*
2. *An Alias Capias*
3. *An Exigent.*

In Misdemeanors, 1. *A Venire*
 2. *A Capias*
 3. *An Alias Capias*
 4. *A Pluries.*

Where

Where the Inhabitants of a Parish are indicted, or presented, the Process is,

1. *A Venire*
2. *A Distringas*.

The Clerk of Assise also enters all Traverses upon Rolls of Parchment, and makes a Copy for the Defendants, who pay for it.

And twice a Year (pursuant to the *Stat. 22 & 23 Car. 2. c. 22.*) the Clerk of Assise carries the *Estreats* into the *Exchequer*, of all Fines, Issues, Amerciaments, and forfeited Recognizances; set, imposed, or forfeited at the Assises.

He makes copies of Indictments, Records of Convictions, and Acquittals, &c.

The Clerk of Assise (after the Assises) upon Application makes out Certificates of Persons indicted, upon which any one of the Judges of the Court of *King's Bench*, or any Justice of the Peace of the proper County, will grant Warrants for apprehending the Parties, and will oblige them to enter into Recognizance to answer, or, for want of Sureties, will commit them*.

The Clerk of the Assise makes out all Certificates of Convictions for Robbery on the Highway, Burglary, &c. and attends the Judge who tried the Prisoners with the Prosecutors and the several Claimants, to settle the Reward, and also makes out Certificates to exempt the Prosecutors of Burglars, Horse-Stealers, Robbers of Shops, Warehouses, Coach-Houses, and Stables, from serving Parish Offices, which Certificate is signed by the Judge, and inrolled in the Clerk of Assise's Office. The Clerk of Assise makes out (when required) diverse other Certificates, &c. relative to the Records,

* The Clerk of Assise on the Western Circuit makes Warrants, called Assise Warrants.

and Matters in his Office unnecessary to be here inserted.

A Certificate of a Judge of Assise, to intitle the Apprehenders of a House Breaker, to forty Pounds Reward for Apprehension, &c.

THESE are to certify, That at the General Gaol-Delivery holden at *Kingston upon Thames* in and for the County of *Surry*, on *Thursday* the Day of this Instant *March*, before me *Thomas Burnet*, Esq; one of the Justices of his Majesty's Court of *Common Pleas*, and others his Majesty's Justices, assigned to deliver the Gaol of the County aforesaid of the Prisoners therein being, *J. M.* was convicted of Felony and Burglary, in breaking and entering the Dwelling-House of *T. N.* in the Night-Time, of the thirty-first Day of *December* last, at the Parish of _____ in the County aforesaid, and stealing thereout two Guineas and twenty-two Shillings in Monies numbered, of the Monies of the said *T. N.* and that *T. N. J. S. R. B. J. W.* and *W. S.* did apprehend and take the said *J. M.* and did prosecute him so apprehended and taken, until he was convicted of the Felony and Burglary aforesaid; and I do hereby direct and appoint the Sheriff of the County of *Surry* aforesaid, to pay unto any amongst the said *T. N. J. S. R. B. J. W.* and *W. S.* the Sum of forty Pounds in Manner following, that is to say, unto the said *T. N.* the Sum of fifteen Pounds; unto the said *J. S.* the Sum of two Pounds and ten Shillings; unto the said *R. B.* the Sum of two Pounds and ten Shillings; unto the said *J. W.* the Sum of ten Pounds; and unto the said *W. S.* the Sum of ten Pounds, for the Apprehension and Conviction aforesaid, pursuant to an Act of Parliament made in the fifth Year of the Reign of her late Majesty Queen

Queen Anne, intituled, *An Act for the encouraging the Discovery and Apprehending of House-Breakers*, dated the twenty-fifth Day of March in the Year of Reign of our Sovereign Lord George the Third, now King of Great Britain, France, and Ireland, Defender of Faith, &c. and in the Year of our Lord One thousand seven hundred and

By the Statute 5 Ann. c. 31. Every Person who shall take any one guilty of Burglary, or the felonious breaking and entering of any House in the Day Time, and prosecute them unto Conviction, shall receive above the * Reward given by the 10 & 11 W. 3. c. 23. the Sum of forty Pounds, within one Month after such Conviction, to be paid by the Sheriff of the County where the Felony was done, without any Fee, upon tendering a Certificate under the Hand of the Judge, before whom the Conviction was, certifying the Conviction, and in what Parish the Felony was committed, and the Taking by the Person claiming the Reward, to be divided as to him, &c. shall seem just: And if the Sheriff shall die, or be removed, in one Month after Demand, and Non-Payment, then the succeeding Sheriff shall pay the same in one Month after Demand, and Certificate brought; and the Sheriff making Default, shall forfeit to the Person or Persons, to whom such Money is due, double the Money, to be recovered in any of the Courts of Record at Westminster, by Action of Debt, Bill, or Information, with treble Costs.

In Case any Person shall be killed by such House-Breaker, endeavouring to apprehend him, then the Executors or Administrators, or Person to whom the Right of Administration shall belong, upon Certificate delivered, under the Hand and Seal of the Judge of Assize of the County where the Fact was done, or the two next Justices of the Peace, of the Person's being

* Vide Certificate for Burglary in the Practice of Session hereafter.

so killed, shall receive forty Pounds from the Sheriff where the Fact was done, and upon Failure of Payment, double the forty Pounds to be recovered with treble Costs as aforesaid.

The Judge, before whom such Felons and House-Breakers shall be convicted, shall settle the Rights and Shares of Persons intitled to Certificates, and deliver the Certificates without Fee before the End of such Assises or Sessions, wherein such Conviction shall be had.

Note; A Reward of forty Pounds is allowed by the Stat. 4 & 5 W. & M. c. 8. for apprehending a Highwayman, recoverable in the same Manner as above-mentioned, and for apprehending House-Breakers; and the Executors, &c. of Persons killed in endeavouring to apprehend Highwaymen, are intitled to forty Pounds in Manner above also mentioned; and the Apprehender shall have the Highwayman's Horse, Furniture, Arms, Money, and other Goods taken upon him, provided not to deprive any Person of his Right, from whom before the same were feloniously stolen. See Title *Robbery*.

Note; The Certificate may be formed from the above Certificate, *Mutatis Mutandis*, specifying the Offence, and inserting the Title of the Act.

Note also, that a Reward of one hundred Pounds (over and beside the forty Pounds allowed by the Statute) is given (by Proclamation) to the Captors of a Highwayman, who shall commit a Robbery within five Miles of *London*, payable out of the Treasury.

*A Record of Acquittal on an Indictment for Felony
at the Assises.*

Derby. **B**E it remembred, That at the Session of *Oyer and Terminer* of our Sovereign Lord the King, holden for the County of *Derby*, at *Derby* in the same County, on *Saturday*, to wit, on the Day of in the Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, before Sir *John Willes*, Kt Chief Justice of our said Lord the King, of the Court of *Common Pleas*, *Thomas Dennison*, Esq; one of the Justices of our said Lord the King, assigned to hold Pleas before the King himself; *Richard Eadnell*, Gent. and others their Fellows, Justices of our said Lord the King, by Letters Patent of our said Lord the King, under the Great Seal of *Great Britain*, to them the aforesaid Justices, and others, and any two or more of them made (whereof one of them, the said Sir *John Willes*, or *Thomas Dennison*, among others in the said Letters Patent named, our said Lord the King would should be one) to inquire by the Oath of good and lawful Men of the County aforesaid, and by other Ways, Means, and Methods, by which they might better know, or be able to know as well within Liberties as without, by which the Truth of the Matter might be better known and inquired into, of whatsoever Treasons, Misprisions of Treason, Insurrections, Rebellions, Counterfeiting, Clippings, Washings, false Coinings, and other Falsifyings of the Money of *Great Britain*, and other Kingdoms and Dominions whatsoever, and of whatsoever Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, Assemblies, and Conventicles, unlawful uttering of Words, Misprisions, Confederacies, false Allegations,

tions, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsties, Negligencies, Concealments, Maintenance, Oppressions, Champarties, Deceits, and other Misdeeds, Offences, and Injuries whatsoever, and also the Accessaries of them within the County aforesaid, as well within Liberties as without, by whomsoever and howsoever had, done, and committed or perpetrated, and by what, or by which, to whom or by whom, when, how, and after what Manner, and of other Articles, and Circumstances, the Premises, and every of them, or any one of them, or any whatsoever concerning the full Truth, and the said Treasons, and other the Premises for this Time to hear and determine according to the Laws and Customs of *England*, by the Oath of (*Here insert all the Names of the Grand Jury*) good and lawful Men of the County aforesaid, then and there sworn and charged to inquire for our said Lord the King, for the Body of the County aforesaid; it is presented in Manner and Form following: (that is to say) *Derby*, The Jurors for our Lord the King upon their Oath present, That *A. B.* (*so insert the whole Indictment*) Whereupon the Sheriff of the said County of *Derby* is commanded not to forbear, for any Liberty in his Bailiwick, but that he take the said *A. B.* to answer, &c. which said Indictment, the said Justices of our said Lord the King abovenamed, afterwards, to wit, at the Delivery of the Goal of our said Lord the King, of his County of *Derby*, holden at *Derby* aforesaid in and for the same County, on — to wit the — Day of — in the said — Year of the Reign of our said Lord the King, before *Edward Clive*, Esq; one of the Barons of the *Exchequer* of our said Lord the King, *Thomas Blencowe*, Esq; and *Josia Hodgson*, Gent. and others their Fellows, Justices of our said Lord the King, assigned to deliver his said Gaol of the County

County of *Derby* aforesaid of the Prisoners therein being, by their proper Hands, to deliver here in Court of Record in Form of Law, to be determined, &c. and afterwards, to wit, at the same Delivery of the Gaol of our said Lord the King, of his County of *Derby* aforesaid, holden at *Derby* aforesaid, in and for the County aforesaid, on the said — the — Day of — in the said — Year of the Reign of our said Lord the King, before the said Justices of our said Lord the King last above-named, and others their Fellows aforesaid, Cometh the said *A. B.* under the Custody of *German Pole*, Esq; Sheriff of the County aforesaid, (in whose Custody in the Gaol of our said Lord the King, of the County aforesaid, for the Cause aforesaid, he had before been committed) being brought to the Bar here in his proper Person, who is committed to the aforesaid Sheriff, &c. and forthwith of the Premises in the Indictment aforesaid above specified, being asked in what Manner he would be acquitted thereof; he the said *A. B.* says he is Not guilty thereof, and thereof for good and ill he puts himself upon the Country; therefore let a Jury thereupon immediately come before the said Justices of our said Lord the King last above-named, and others their Fellows aforesaid here, by whom the Truth of the Matter will be better known, and who have no Affinity to the said *A. B.* to recognize upon their Oath, whether the said *A. B.* be guilty of the Premises in the Indictment aforesaid above specified, or not; and the Jurors of the said Jury by the said Sheriff for this Purpose impanelled and returned, to wit, (*Here insert all the Names of the Petty Jury*) being called, come, who being chosen, tried, and sworn to speak the Truth of and upon the Premises aforesaid, in the Indictment aforesaid above specified,

do say, upon their Oath, and the said *A. B.* is Not Guilty of the Premises aforesaid, in the Indictment aforesaid above specified, in Manner and Form as the said *A. B.* for himself above by his Plea hath alledged, nor did he withdraw himself on that Occasion; upon which it is considered by the Court here, that the said *A. B.* of the Premises aforesaid, in the Indictment aforesaid above specified, be discharged, and do go without Delay.

THE

T H E
P R A C T I C E
O F T H E
General and General Quarter
S E S S I O N S.

Precept to Summon the General Session, &c.

Middlesex. **W**E Thomas Lane, and Edward Barker, Esqs, two of the Justices of our Sovereign Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, To the Sheriff of *Middlesex*, greeting. On the Part of our said Lord the King we command you, that you do not omit for or by Reason of any Liberty in your Bailiwick (except the Liberty of * *Westminster*) but that you cause to come before us, and others our Fellow Justices of our said Lord the King, assigned to keep

* The Dean and Chapter of the Collegiate Church of St. Peter, *Westminster*; the City, Borough and Town of *Westminster*, in the said County.

the

the Peace in the said County, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, at *Hicks's Hall* in Saint *John Street* in the said County, on the Day of now next ensuing, at the Hour of in the Forenoon of the same Day, twenty-four good and lawful Men of the Body of your County, to inquire, present, do and perform, all and singular such Things, which on the Part of our said Lord the King shall be enjoined them. Make known also to all the Justices of the Peace of our said Lord the King, in your County aforesaid, That they be there with their Rolls, Records, and other Memorandums, to do those Things which in that Behalf belong to their Offices to be done. And have you then and there the Names of the said Jurors, and this Precept. Given under our Hands and Seals, at *Hicks's Hall* aforesaid, this Day of in the Year of the Reign of our Sovereign Lord *George the Third*, King of Great Britain, &c. and in the Year of our Lord 17

What a Session is.

The *Session of the Peace* is a Court of Record, held before two or more Justices of the Peace, one being of the *Quorum*, for the Execution of the Authority given them by their Commission, and certain Acts of Parliament.

This Court, by the *Stat. 2 H. 5. Stat. 1. c. 4.* is appointed to be held four Times in the Year, viz. in the first Week after *Michaelmas*, *Epiphany*, *Easter*, and the Translation of Saint *Thomas the Martyr* (called *Becket*, which was on the Seventh of July,) and oftner, if need be; and is generally held on the *Tuesday* in these Weeks. It seems to be the Intent and Meaning of the said *Statute 2 H. 5. c. 4.* that

that the Weeks wherein the aforeſaid Feaſts happen, muſt be firſt ended, before the Sessions can begin.

But by the *Stat. 14 H. 8. c. 4.* the Juſtices of *Middleſex* are not obliged to keep Sessions above twice in the Year; but they may oftner if they think fit. And becauſe of the Multiplicity of Buſineſs ariſing in this County more than in any other, it is cuſtomary to hold eight Sessions every Year, (to wit) four General Quarter, and four General Sessions; and in *Middleſex* the Juſtices have a Commiſſion of *Oyer and Terminer*; which Sessions they hold as often as they hold the Sessions of the Peace.

Within the County of *Middleſex* is the City, Borough, and Town of *Weſtminſter*; which City, &c. hath a diſtinct Commiſſion of the Peace, by Virtue whereof the Juſtices of that Liberty, &c. hold four Quarter Sessions of the Peace every Year, at *Weſtminſter Hall*; and alſo have Power, by their Commiſſion, to take cognizance of Offences committed in the Precinct of *St. Martin le Grand, London*, and twice in every Year adjourn the Session of the City and Liberty of *Weſtminſter*, to the Court-houſe of the ſaid Precinct of *St. Martin le Grand*.

At both the laſt mentioned Sessions, Indictments are prefer'd for Felonies, Burglaries, &c. which when return'd by the Grand Jury into Court, are, by the reſpective Clerks of the Peace, tranſmitted to the *Sessions houſe* in the *Old Bailey*, where the Sessions of *Oyer and Terminer*, and *General Gaol-Delivery* of *Newgate*, for the City of *London* and County of *Middleſex*, are alſo holden eight Times in the Year (to wit) in the ſame Weeks in which the Sessions are held at *Hicks's Hall*.

Altho' the City and Liberty of *Weſtminſter* has a ſeparate Commiſſion of the Peace from that of the County

County of *Middlesex*, yet Indictments for Offences committed within the said City and Liberty (except the Precinct of *St. Martin le Grand, London*) are within the Cognizance of the Session of the Peace of the County of *Middlesex*; and 'tis much better to prefer Indictments at the County Sessions, for Misdemeanors committed in the Liberty of *Westminster*, than at the Session for the said Liberty, inasmuch as there are eight Sessions yearly for the said County, and but four for the Liberty; consequently an Indictment may be tried and determined in half the Time at the Session for the County, than it can at the Liberty. And *note*, that all Indictments exhibited at *Westminster*, for the City and Liberty, must particularly set forth the Stile of the said City and Liberty in the Margin, thus, *City, Borough, and Town of Westminster in the County of Middlesex*; and if the Offence be committed in *St. Martin's le Grand*, you add it to the former, in the Margin thus, *and St. Martin le Grand, London*; then begin your Indictment, *The Jurors, &c. That A. B. late of the Parish of Saint Martin in the Fields, within the Liberty of the Dean and Chapter of the Collegiate Church of Saint Peter, Westminster, the City, Borough, and Town of Westminster, in the County of Middlesex, Yeoman, &c.* And if the Offence be committed in a Parish within *Saint Martin le Grand*, lay the Defendant of that Parish, and go on with the Stile of the said Liberty as before, and then add these Words, *and Saint Martin le Grand, London, Yeoman, on the*
Day of in the Year of the Reign,
&c. with Force and Arms, at the Parish aforesaid,
within the Liberty aforesaid, in the County aforesaid,
&c. and conclude your Indictment. *Note also*, That if you would prefer your Indictment at the County Sessions, for any Offence committed in any Parish within the said City and Liberty (except
Saint

Saint Martin le Grand) you must mention the Parish generally, and leave out the Stile of the Liberty, by saying only, *A. B. late of the Parish of Saint Martin in the Fields in the County of Middlesex, Yeoman*, and so forth; and if a Party should be bound by Recognizance to prefer a Bill of Indictment, and prosecute for an Offence at the next Session of the Peace to be holden for the City and Liberty of *Westminster*, if the Party so bound prefers a Bill for the same Offence at the Session for *Middlesex*, 'tis the same as if he had prefer'd his Bill at the Session for the Liberty, and his Recognizance shall be safe; for the Clerks of the Peace, as well for the said County, as the said Liberty, do yearly, before they send the Eftreats into the *Exchequer*, compare their Books of forfeited Recognizances; and if it appears, that a Party bound to prosecute at *Westminster*, hath prosecuted at the Session for *Middlesex*, his Recognizance is not estreated.

The Justices of the Peace have power to hear and determine divers Felonies, Trespasses, &c. (according to the Words of their Commission;) but though the Justices of the Peace have this Power, yet now the common Practice is, to try Petty Larcenies and Misdemeanors only at Sessions of the Peace, and those Felonies of a higher Nature are transmitted as before-mentioned. If Indictments of Felony, above the Degree of Petty Larceny, are prefer'd at the Sessions in the Country, the Clerks of the Peace of the respective Counties, transmit them to be tried at the Assises on the Gaol-Delivery holden for such Counties where the Bills are found; but where a Statute creates a Crime, and appoints before whom it shall be tried, in such Case, if the Sessions be not named, they have no Jurisdiction; as in Forgery, upon the Statute 5 *Eliz. c. 14.* which provides, That the In-

dictment shall be taken before Justices of Assize, and Justices of Oyer and Terminer; so that an Indictment on that Statute may be exhibited at the Sessions of Oyer and Terminer for the County of *Middlesex*, and not at the Sessions for the City and Liberty of *Westminster*, for they have no Commission of Oyer and Terminer.

The Persons who ought to appear at the Sessions of the Peace, are as follow:

1. The *Justices of the Peace*; for the Sessions cannot be held without a competent Number, who are to return thither such Recognizances to answer, prosecute, and to give Evidence, as before such Justices (in the intervening Time between one Sessions and another) have been respectively acknowledged and taken: And the Justices of the Peace ought also to attend by themselves, or Clerks, at the Sessions of Gaol-Delivery, to testify the Examinations and Informations they have taken.

2. The *Custos Rotulorum*, by Virtue of his Place, hath the the Custody of the Rolls of Sessions, and ought to attend the Sessions by himself, or his Deputy, who is the Clerk of the Peace.

3. The *Sheriff*, by himself, or Deputy, must attend to return Jurors, receive Prisoners committed, and the Fines imposed by the Court, &c.

4. The Constables of Hundreds ought to be there, and all other Officers, to whom any Warrant has been directed, in Order to make Return thereof.

5. The *Gaoler* ought to be there, to give Calendars to the Justices, Clerk of the Peace, and other Officers of the Court, of such Persons as are in Gaol, and to receive such as may be committed for any Contempt or Offence.

6. The *Governor*, or *Keeper of the House of Correction*, to give Calendars as aforesaid, of such Rogues and disorderly Persons, as have been committed

mitted to his Custody ; in Default thereof he is punishable by *Stat. 7 Jac. 1. c. 4.*

7. All Jurors returned by the Sheriff, by Virtue of the Precept to him directed.

8. All Persons bound by Recognizance, to answer, prosecute, and give Evidence.

9. All *Bailiffs* of Hundreds and Liberties, in Respect they are bound to give an Account of all Sessions Proses.

10. All *Coroners, &c.*

The Jurors not appearing, according to their Summons, are punishable by Loss of Issues, which usually makes up Part of the *Estreats* of Sessions ; as also the Constable, &c. by Fine to be set on them.

The Justices being met to hold the Sessions, the Method is to make Proclamation, and then read the Commission of the Peace ; which done, the Gentlemen, returned by the Sheriff for the Grand Jury, are called, sworn, and charged, who immediately (if any Bills of Indictments are ready for Examination) proceed to their Business.

And the Court proceeds to try Traverses, Petty Larcenies, &c.

When the Grand Jury have agreed upon any Bills, they bring the same into Court ; and the Clerk of the Peace calls every Jurymen by his Name, who severally answer, to signify they are present ; and the Foreman of the Jury hands the Indictments to the Clerk of the Peace, who thereupon says to the Jury, thus ; *Gentlemen, you agree the Court shall amend Matter of Form, altering no Matter of Substance.* The Jury signifying their Consent, the Clerk of the Peace reads the Names of the Offenders, and Offences, of every Indictment, whether the Bills are found to be true or not (as indorsed by the Jury ;) and on those Bills not found, the Clerk of the Peace makes a Cross.

And

And as to those Bills found for Grand Larceny, or Crimes of a higher Nature, the several Witnesses indorsed on the Back of the Bills are respectively called over, and directed to go to the *Old-Bailey*, (at such a Time when the Session sits) and prosecute *A. B.* for Felony, or as the Case is; then the Jury return to examine the Witnesses, upon such other Bills as are brought before them.

When Bills of Indictments are found by the Jury to be true, the Prosecutors have a Right to Process or Warrants against the Parties indicted, in order to bring them into Court to answer; but the Practice in *Middlesex* Sessions is, not to grant a Warrant, in Cases of Misdemeanor, or Trespass, 'till the Grand Jury be discharged (which seldom happens 'till the last Day of Sessions;) because Persons are frequently bound by Recognizance, before the Sessions, to answer for the same Offence for which they are indicted. The Session, tho' it may hold a Week, or more, is but one Day in Law; therefore Parties bound by Recognizance ought to have the whole Time to come and answer, otherwise two Recognizances may be taken for one and the same Offence, previous to any Plea. (*See the Form of a Bench Warrant upon an Indictment, hereafter, No. 5.*)

If no Application be made for a Warrant, during the Sitting of the Sessions, the Prosecutor (in Case the Defendant does not come in and plead) may, after the Session, apply to the Clerk of the Peace, at his Office, who will certify that a Bill of Indictment is found (*The Form of which see hereafter, No. 6.*) upon whose Certificate, some one of the Judges of the Court of *King's Bench*, or a Justice of the Peace, will grant a Warrant to take the Party indicted, and will take Sureties or Bail for his personal Appearance at the next Sessions, to plead to such Indictment; or will commit him for
Want

Want of Sureties : But in order to procure a Judge's Warrant there must, besides the Certificate, be also produc'd an Affidavit of the Nature and Circumstances of the Case, whereby it may appear that the granting such Warrant is requisite.

The Warrant of the Judge is directed to his Tipstaff, and to all Constables, &c. and other Peace-Officers, and extends all over *England*, whereas the Justice's Warrant, on such Certificate, is executed by a Constable or Headborough, and extends no farther than the particular County for which they are Officers ; except only, that if a Warrant be obtained on an Indictment in one County, the Defendant may be arrested in any other County ; but Application must first be made to a Justice of the Peace of such other County, by Information, on Oath, that it is believed the Defendant is in that County ; whereupon the Justice of the Peace will indorse that Warrant, and direct it to the Constables, &c. of his County, signifying the Defendant is to be found there ; and by such Indorsement command the said Constables, &c. to bring the Defendant before him, or some other of his Majesty's Justices of the Peace of that County, to answer the Premises contained in the said Warrant, to which the said Justice puts his Hand and Seal ; and if the Defendant should be arrested and brought before the said Justice, he may bind him in a Recognizance, with Sureties to appear at the next Sessions of the Peace, to be holden for the County where the Indictment was found, to answer and plead to the same.

Note ; Justices of the Peace very seldom oblige Defendants to give Notice of the Bail they intend to put in, unless for some very heinous Offence : But in all Cases, if the Defendant be arrested by Virtue of a Judge's Warrant, he must remain in Custody 'till such Time as he has given twenty four

D

Hours

Hours Notice, at least, to the Prosecutor, or his Solicitor, of the Bail he intends to put in before the Judge (*the Form of which Notice see hereafter, No. 1.*) so that the Prosecutor in that Time may have an Opportunity of inquiring after such Bail, if they are good and substantial House-keepers; and if the Bail are not so, the Prosecutor, or his Solicitor, may attend the Judge, when the Defendant is brought up in Order to be bailed, to make their Exceptions against them.

If a Defendant should be arrested on a Judge's Warrant, in any Place remote from the Judge's Chambers, or in the Vacation Time, when the Judges are out of Town, or on their Circuits, a Justice of Peace may take Bail, and the Defendant must give the like Notice as before-mentioned.

No. I. *The Form of a Notice of putting in Bail.*

The KING against JAMES MUNS.

Mr. WILLIAM PECK, Prosecutor,

TAKE Notice, That I shall put in Bail before Mr. Justice Foster, at his Chambers in *Serjeants Inn, Chancery-Lane*, to-morrow in the Evening, at the Hour of Seven, for my Appearance at the next General Session of the Peace, to be holden at *Hicks's Hall in St. John Street*, in and for the County of *Middlesex*, then and there, to answer and plead to the Indictment you have prefer'd against me for assaulting you. The Names of the Bail are, *Michael South of Tavistock-street, near Covent-Garden,*
Mercer,

Mercer, and Peter Groom of the same Place,
Vicualler.

Yours, &c.

10th April,
1761.

JAMES MUNS.

Indictments preferred at Sessions, may be removed by *Certiorari*, into the Court of King's Bench, either by the Prosecutor or the Defendant.

The Writ of *Certiorari*, to remove Indictments, is sued out of the Crown-Office.

By the Stat. 5 & 6 W. & M. c. 11. In Term Time no *Certiorari*, at the Prosecution of any Party indicted, shall be granted out of the Court of King's Bench, to remove any Indictment before Trial had, from before the Justices of the General or Quarter Sessions of the Peace, unless such *Certiorari* shall be granted upon Motion of Counsel and Rule of Court, in open Court; and the Parties indicted, prosecuting such *Certiorari*, shall find two Manucaptors before one or two Justices of the County, in twenty Pounds, to plead to the said Indictment in the King's Bench, and at their own Charges to procure the Issue that shall be joined upon the said Indictment, to be tried at the next Assises, held for the County where the said Indictment was found, after such *Certiorari* shall be returnable, if not in London, Westminster, or Middlesex; and if in the said Cities or County, then to cause it to be tried the next Term after such *Certiorari* shall be granted, or at the Sitting after the said Term, if the King's Bench shall not appoint any other Time. And Notice to be given to the Prosecutor, and the said Recognizance and *Certiorari* to be certified into the King's Bench, and there filed, and the Name of the Prosecutor to be indorsed: And if the Party prosecuting such *Certiorari*, being the Defendant, shall not before Allowance thereof procure such Manucap-

36 *The Practice of the General*

tors to be bound in a Recognizance, the Justices of the Peace may try the said Indictment at the Sessions, notwithstanding such Certiorari so delivered.

And if the Defendant prosecuting such Certiorari be convicted, then the King's Bench shall give reasonable Costs to the Prosecutor, to be taxed according to the Course of the said Court; and within ten Days after Demand, upon Oath, and Refusal thereof, he shall have an Attachment against the said Defendant by the Court for his Contempt; and the Recognizance not to be discharged, till the Costs, so taxed, shall be paid.

Nevertheless, in the Vacation, Writs of Certiorari may be granted by any of the Justices of the King's Bench, whose Names shall be indorsed, and the Name of the Party, at whose Instance it is granted; and before the Allowance of such Writ, the Party Indicted prosecuting such Certiorari shall find such Sureties as before mentioned in this Act.

And also, upon every Certiorari granted within Chester, Lancaster, and Durham, to remove Indictments as aforesaid, the Parties indicted prosecuting such Certiorari, shall find Sureties to try the said Indictments, at the next Assises, or General Gaol-Delivery, and if convicted, shall be liable to the like Costs; to be taxed, as by this Act is provided, where the same are granted out of the King's Bench.

Provided, if any Indictment be against any Person for not repairing Highways, Causeys, Pavements or Bridges, and the Title to repair the same may come in Question; upon such Suggestion, and an Affidavit made thereof, a Certiorari may be granted to remove the same into the King's Bench; any Law to the contrary notwithstanding.

Pra-

*Provided, that the Parties shall find two Manu-
captors to be bound in a Recognizance, with Condi-
tion as aforesaid.*

Made perpetual by Stat. 8 & 9 W. *Act made per-
petual.*
3. c. 33.

By the Stat. 13 Geo. 2. c. 18. sect. 5. It is enacted that no *Certiorari* shall be granted to remove any Proceedings before any Justice or Justices of Peace, or the General or Quarter Sessions, unless it be moved or applied for within six Calendar Months next after such Proceedings had; and unless it be duly proved upon Oath, that the Party suing forth the same hath given six Days Notice in Writing, to the Justice or Justices or two of them, if so many there be, before whom such Proceedings shall be had; to the End the said Justice or Justices, or the Parties concerned, may shew Cause against the granting such *Certiorari*.

The Party prosecuting any *Certiorari* to remove an Indictment from the Quarter Sessions, may find two sufficient Manuaptors to enter into a Recognizance before any one of the Justices of the *King's Bench*, in the same Sum, and under the same Conditions as are required by the former Act, whereof Mention shall be made on the Back of the Writ, under the Hand of the Justice, who took the same, which shall be as effectual to stay Proceedings, as if taken before a Justice of Peace in the proper County; and it shall be added to the Condition of the Recognizance, that the Party suing out the *Certiorari* shall appear from Day to Day in the Court of *King's Bench*, and not depart till discharged by the said Court.

*The Recognizance
may be taken be-
fore a Judge, &c.*

The Method of Proceeding to Trial, upon Indictments in the Courts of General and Quarter Sessions, is as follows;

D 3

First,

First, The Party indicted comes into Court in his proper Person, and brings with him two sufficient House-Keepers for his Pledges; and his Solicitor makes a Note of the Names and Additions of such Pledges, which he delivers to the Clerk in Court, who is to take the Recognizance.

Then the Clerk reads the Indictment to the Party indicted, and says, *Are you Guilty or not Guilty?* and the Person indicted says *Not Guilty*, which is the Manner of pleading the General Issue.

Then the Clerk calls the Party indicted by his Name, and takes the Recognizance thus: "*A. B.* you acknowledge to owe to our Sovereign Lord the King, the Sum of forty Pounds. *C. D.* and *E. H.* (the Pledges) you and each of you acknowledge to owe to our Sovereign Lord the King, the Sum of twenty Pounds, to be levied upon your several Goods and Chattels, Lands, and Tenements, by Way of Recognizance to his Majesty's Use, upon Condition, that if you *A. B.* shall be and appear at the next Session of the Peace to be holden for this County, and within the three first Days of the same Session, to try your Traverse upon the Indictment, to which he hath now pleaded Not Guilty, and not to depart the Court without Leave; are you content?" Then the Person who hath pleaded, and his Pledges, severally make Answer "Yes" or, "we are contented;" and then depart the Court for that Time. Two or three Days before a Traverse for a Misdemeanor is intended to be tried, the Solicitor for the Defendant draws a Notice thereof, and serves the Prosecutor with a true Copy. The Form of the Notice is thus;

No. 2. The KING against J. D. at the Prosecution
of WILLIAM DYKE.

Mr. WILLIAM DYKE,

Notice of Trial. TAKE Notice, That I intend
to appear to the next General (or General Quarter) Session of the Peace
(as it appears) to be holden by Adjournment,
at Hicks's Hall in St. John Street, in and for
the County of Middlesex, on Wednesday next,
being the Day of by Eight
o'Clock in the Forenoon of the same Day, and
then and there try my Traverse upon the In-
dictment you have prefer'd against me for as-
saulting you. Dated the Day of
1761.

Yours,

J. D.

If the Defendant should be indicted upon the
Commission of Oyer and Terminer, then say, take
Notice I will appear at the Session of Oyer and Ter-
miner, to be holden, &c. and specify the Offence.

When the Defendant's Solicitor hath served the
Prosecutor with such Notice, he applies to the
Clerk of the Peace for a *Venire*, for the Sheriff to
return a Jury, and the Clerk of the Peace makes
out the Writ, for which he takes two Shillings and
Six-pence, and upon that Writ, the Sheriff returns
a Jury, for which he takes ten Shillings. *Note*
also, that the Clerk of the Peace makes out the
Writ of *Subpœna* for Witnesses; for every such
Writ in *Middlesex*, the Clerk of the Peace takes
two Shillings and Six-pence. See the Form hereaf-
ter No. 7.

On the Day of Trial, the Defendant must appear in the Court, at the Bar, in his proper Person, and the Solicitor prepares an Affidavit of the Service of the Notice, in Case the Prosecutor does not appear. (The Form of the Affidavit is as follows :)

No. 3. The KING *against* J. D.

Middlesex. *A.* B. of, &c. Solicitor for the Defendant in this Prosecution maketh Oath, that on *Saturday* last, being the Day of _____ at the Dwelling-House of *William Dyke* the Prosecutor in this Cause, situate in *Soho-Square* in the County of *Middlesex*, he this Deponent did personally serve the said *William Dyke* with a true Copy of the Notice hereunto annexed, and at the same Time did inform the said *William Dyke* of the Contents and Purport thereof.

A. B.

Suorn at Hicks's Hall

Day of _____ 1761.

By the Court

N. B. *Personal Service of the Notice is not absolutely necessary; for if you cannot meet with the Prosecutor, Leaving the Notice with any Person at the last Place of the Prosecutor's Abode, is a good Service.*

When the Defendant is at the Bar, a Clerk in Court relates the Indictment to the Jury, and then says; *to which Indictment the Defendant hath pleaded, Not Guilty: Your Business, Gentlemen, is to inquire whether he be Guilty or Not guilty, and hearken to your Evidence; then the Cryer makes Proclamation: O s, if any one can inform the King's Justices, the King's Attorney, the King's Serjeant, or this Inquest now to be taken, let them come forth and they shall be heard,*

heard, for the Defendant stands at the Bar upon his Discharge.

Then the Prosecutor, and all the Witnesses that appear to be indorsed on the Indictment, are called to give Evidence, and are heard; and if the Defendant is found guilty, the Court sets a Fine upon him adequate to the Offence, or other Punishment, as the Law directs.

In Case of Trespas and Assault, the Court frequently recommends the Defendants to talk with the Prosecutor (that is, to make him amends for the Injury done him;) and if the Prosecutor comes and acknowledges a Satisfaction received, the Court will set a small Fine on the Defendant, as three Shillings and Four-pence, or Twelve-pence.

If a Prosecutor does not appear against the Defendant, according to the Notice, the Defendant is acquitted, the Prosecutor being (by the Crier) called three several Times to come and give Evidence; then the Chairman says to the Jury to this Effect; *Gentlemen, A. B. stands indicted for making an Assault upon B. C. the Prosecutor does not appear to give Evidence, therefore without you know of your own Knowledge, that the Defendant is guilty, you must acquit him;* and thereupon the Jury being asked (by the Clerk of the Peace) *whether the Defendant is Guilty, or Not Guilty;* they say, *Not Guilty;* and the Defendant pays the Jury twelve Shillings for the Verdict, besides paying the Court-Fees.

Sometimes the Prosecutor and Defendant agree before the Defendant pleads to the Indictment, and then the Defendant comes into Court in his proper Person, and pleads Guilty to the Indictment; and upon proving* (by a subscribing Witness) a general Release executed by the Prosecutor, the Defendant submits to a small Fine (to wit) such as the

* An Affidavit must be made and filed.

Court is pleased to impose. Or if the Defendant hath pleaded to the Indictment, Not Guilty, and afterwards obtains a general Release from the Prosecutor, the Defendant may come into Court, and upon relinquishing his former Plea, and pleading Guilty, and upon proving the Release, as above, on Motion of the Council the Court will set a small Fine.

If the Defendant be indicted by a wrong *Christian* Name, he may plead a Misnomer, which is to be ingrossed on Parchment and signed by Counsel (*see the Form of the Plea hereafter, No. 8 and 9.*) and deliver'd by the Defendant in Person, in open Court, upon his being charged with the Indictment; upon which Plea of Misnomer, the Defendant enters into a Recognizance, with Sureties, to prosecute the same, with Effect, the Session following; and the Defendant is to give Notice to the Prosecutor, two Days at least before that Session, that unless he replies, Judgment will be given for the Defendant.

Oftentimes Prosecutors reply, That the Defendant is as well known by one Name as the other; as where one is indicted by the Name of *John*, and his true Name is *Thomas*, yet if the Defendant is commonly called *John*, and that proved by proper Witnesses upon the Replication, Judgment shall pass for the King.

If the Defendant be acquitted, he cannot again be indicted for the same offence; but if he should be again indicted, he may plead *autrefois acquit*.

There are frequent Prosecutions at Sessions for trifling Assaults, in which Cases 'tis adviseable for a Defendant not to put himself to the Expence of trying the Indictment; but to give Notice to the Prosecutor, that he intends to plead Guilty to such Indictment (*the Form of which see hereafter;*) in which Case the Prosecutor attends the Court, with his

his Witnesses, and gives Evidence of the Nature of the Offence; and then the Court proceeds to Fine the Defendant for his Misbehaviour towards the Prosecutor: But before that is done, the Court will admit the Defendant to call such Witnesses as he desires, and will examine them by Way of Mitigation. And if the Prosecutor does not appear, pursuant to the said Notice, then upon making an Affidavit of the Service of the said Notice, the Court will set a small Fine on the Defendant, and discharge him. (*See the Notice to plead Guilty, No. 4.*)

No. 4. *Notice of pleading Guilty to an Indictment.*

The KING *against* H. J.

Mr. PHILIP SOMERSET,

TAKE Notice, That I will appear at the General Quarter-Sessions of the Peace to be holden at *Hicks's Hall* in *St. John Street*, in and for the County of *Middlesex*, by Adjournment, on *Friday* the Twelfth Day of this Instant *January*, at the Hour of Ten in the Forenoon of the same Day, and will then and there plead Guilty to, and confess the Indictment by you prefer'd against me for an Assault. Dated this——Day of *January* 1761.

Yours, &c.

H. J.

If the Defendant should have an Action brought against him for the same Offence of which he stands indicted (which he cannot well judge before the Plaintiff declares) the Defendant may apply to his Majesty's Attorney General for a *Noli Prosequi*, to be

be entered on the Indictment. For this Purpose, he must first obtain a Certificate from the Clerk of the Peace, of the whole Substance of the Indictment, and the Time when it was prefer'd; which Certificate must be annexed to an Affidavit, purporting "That such a one did see the Clerk of the Peace of the County of *Middlesex* sign the Certificate thereto annexed on such a Time; and that since, or before the Time (*as the Case is*) of preferring the Indictment, this Deponent was served with a Copy of a *Capias*, issuing out of his Majesty's Court of *Common Pleas*, at the Suit of *A. B.* the Prosecutor of the said Indictment, returnable, &c. and that at such a Time this Deponent did receive a Notice of a Declaration being filed against him, at the Suit of the said *A. B.* the Prosecutor of the said Indictment, in Prothonotary *Cooke's* Office in the *Temple*, for assaulting him the said *A. B.* which said Declaration and Indictment, this Deponent saith, is for one and the same Assault, and not for two different Offences of that Sort;" whereupon the Attorney General will grant a Summons, directed to the Prosecutor, to attend him on such a Day, to shew Cause why a *Noli Prosequi* should not be entered on such Indictment; and if the Prosecutor does attend pursuant to that Summons, he must make his Election whether he will proceed on the Indictment, or on the Action; and if he does not attend the first Summons, a second and third issues; and if he does not attend either of them, upon making Affidavit of the Service of the several Summonses on the Prosecutor, or leaving them at the last Place of his Abode, the Attorney General will sign a Warrant under his Hand and Seal, directed to the Clerk of the Peace of the County, for entering a *Cessat Processus* on the Indictment.

All

All Motions at Sessions ought to be made by Counsel, if Counsel are attending, otherwise the Court will hear Motions by the Solicitors.

Towards the Close of the Sessions, that is to say, after the Grand Jury is discharged, and Traverfes, &c. are tried, the Court proceeds to the Discharge of such Persons as are bound by Recognizance to answer.

The Parties bound to answer, are call'd as they stand enter'd in the Clerk of the Peace's Book, and if there be no Indictment against them, they are discharged upon answering to their Names and paying their Fees.

No. 5. *The Form of a Bench Warrant upon an Indictment being found.*

Middlesex. *To all Constables, Headboroughs, and other his Majesty's Officers and Ministers within the County of Middlesex, and to every of them whom it may concern.*

THESE are to will and require, and in his Majesty's Name to charge and command you, upon Sight hereof, to bring before us his Majesty's Justices of the Peace of the County afore-said, at the Sessions of the Peace now holden at *Hicks's Hall in St. John Street*, in and for the said County, the Body of *John Doe for a Trespass and Assault (specify the Offence)* (if the Court shall be then and there sitting) or if not, before us, or some other of his Majesty's Justices of the Peace of the same County, to find sufficient Sureties for his personal Appearance at this present Session, to answer the same, and all such other Matters as on his Majesty's Behalf shall be objected against him; and if he cannot be taken during this present Session, that then so soon after as he shall be taken,
you

you bring, or cause him to be brought, before us, or some other his Majesty's Justices of the Peace of the said County, to find sufficient Sureties for his personal Appearance at the next Session of the Peace to be holden for the said County, to answer as aforesaid, and further to be dealt withal according to Justice: Hereof you are not to fail at your Peril. Dated in open Session at *Hicks's Hall* aforesaid, this——Day of *December* in the Year of our Lord, 1761.

No. 6. *A Certificate of a Person's standing Indicted.*

Middlesex. THESE are to certify, That at the General Quarter Sessions of the Peace holden at *Hicks's Hall* in *St. John Street*, in and for the County of *Middlesex*, by Adjournment, on *Monday* the eighth Day of *October* last past, *W. J.* was, and stands indicted for a Trespass and Assault upon *Hannab North*, Widow, to which Indictment the said *W. J.* hath not as yet appeared or pleaded. Dated this——Day of *November* in the Year of our Lord 1761.

No. 7. *Subpcena for Witnesses to give Evidence at the Sessions of the Peace.*

Middlesex. GEORGE the Third, by the Grace of GOD, of Great Britain, France and Ireland King, Defender of the Faith, &c. to *A. B. C. D. E. F. G. H. **, greeting: We command you, that all Business being laid aside, and all Excuses whatsoever ceasing, you do in your proper Persons appear before our Justices assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine divers Felonies, Tres-

* Note; There may be four Witnesses put in one Subpcena.

passes, and other Misdeeds committed in the same County at the Session of the Peace to be holden at *Hicks's Hall* in *St. John Street*, in and for the said County, on *Thursday* the 22d Day of *May* next, at the Hour of Ten in the Forenoon of the same Day, to testify the Truth and give Evidence *on our * Behalf*, against *J. S.* in a Case of Trespass and Assault; and this you are no wise to omit, nor any of you to omit, on pain of one Hundred Pounds. *Witness* *Thomas Lane, Esq;* the——Day of April in the——Year of our Reign.

T. W.

No. 8. Pleas of Misnomer.

AND *Elizabeth*, the Wife of *J. H.* (who is indicted by the Name of *Elizabeth S.* Spinster) cometh in her proper Person, and having heard the Indictment, she saith, that at the Time of taking the said Indictment, and long before, she, the said *Elizabeth*, was, and yet is the Wife of the said *J. H.* and then and long before was, and yet is called and known by the Name of *Elizabeth H.* Wife of the said *J. H.* without this, that she the said *Elizabeth*, at the said Time of the taking the said Indictment, or at any Time since, was *Elizabeth S.* Spinster, or then was, or at any Time since hath been, or now is called or known by the Name of *Elizabeth S.* and this she is ready to verify; wherefore she prayeth the Judgment of the Court here, and that she may be dismissed and discharged of the said Indictment.

* If it is on the Behalf of the Defendant, then you must say, *between us J. S.* and so on as in the Precedent.

No. 9.

No. 9. A N O T H E R.

AND *Elizabeth C.* who is indicted by the Name of *Sarah C.* cometh here into Court in her own proper Person, and demandeth Judgment of the said Indictment, because she saith, that she the said *Elizabeth C.* from the Time of her Baptism to this present Time, was and still is called and known by the Name of *Elizabeth*, and by the said *Christian* Name is, and during the whole Time aforesaid, was called, named, and known; without that, that she the said *Elizabeth* now is, or any Time heretefore to this Day was called, named, or known by the Name of *Sarah*, as is supposed by the Indictment aforesaid; and this she the said *Elizabeth* is ready to verify; for which Reason, and because she the said *Elizabeth* is not named in the said Indictment by the Name of *Elizabeth C.* she the said *Elizabeth C.* demands Judgment of the said Indictment, and that the said Indictment may be quash'd.

No. 10. *A Certificate of Conviction for Burglary.*

Middlesex. **T**HESSE are to certify, that at the Session of Gaol-Delivery of *Newgate*, holden for the County of *Middlesex*, at *Justice Hall* in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday*, the——Day of this Instant *October*, *A. R.* was convicted, for that he, on the sixteenth Day of *June* last, about the Hour of Two in the Night of the same Day, the Dwelling-House of *C. D.* situate in the Parish of *St. Martin in the Fields* in the said County of *Middlesex*, then and there feloniously and burglariously did break and enter, with Intent, the Goods and Chattels of the said *C. D.* in the same Dwelling-House,
then

then and there being, then and there feloniously and burglariously to steal, take, and carry away. Dated this Day of *October* in the Year of our Lord 1760.

———W. Clerk of the Peace and Gaol-Delivery of the County of Middlesex.

A Certificate to discharge a Person from Parish Offices, &c. for apprehending and prosecuting a Person 'till Conviction, for Burglary.

THESE are to certify, that at the Session of Gaol-Delivery of *Newgate*, holden for the County of *Middlesex*, at *Justice Hall* in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday*, the———Day of this Instant *October*, before Us, whose Hands are hereunto set, and others his Majesty's Justices, assigned to deliver the said Gaol of the Prisoners therein being, *A. B.* was convicted and attainted of Felony and Burglary, in breaking and entering the Dwelling-House of *C. D.* in the Night-time of the sixteenth Day of *June* last, at the Parish of *St. Martin in the Fields* in the County of *Middlesex*, with Intent to steal the Goods, Chattels and Monies of the said *C. D.* in the said Dwelling-House. And it is hereby further certified, that the said *C. D.* was the Person who did apprehend and take him the said *A. B.* and did prosecute him so apprehended and taken, until the said *A. B.* was convicted of the said Felony and Burglary. And pursuant to an Act of Parliament made in the tenth and eleventh Years of the Reign of his late Majesty King *William* the Third, intituled, *An Act for the better apprehending, prosecuting and punishing of Felons that commit Burglary, House-breaking, or Robbery, in Shops, Warehouses, Coach-houses, or Stables, or that steal Horses;*

we the said Justices do hereby further certify, that by Virtue hereof, and of the said Act of Parliament, he the said C. D. for the Apprehension and Conviction aforesaid, shall and may be, and he is hereby declared to be discharged of and from all and all Manner of Parish and Ward Offices within the Parish of *St. Martin in the Fields* aforesaid. Dated this ——— Day of *October* in the ——— Year of the Reign of our Sovereign Lord *George the Third, &c.* and in the Year of our Lord 1760.

The above Certificate must be ingrossed on Parchment, and signed by the Lord Mayor and Recorder; but you must first obtain a Certificate from the Clerk of the Gaol-Delivery (who is Clerk of the Peace of the County of *Middlesex*) of the Conviction of the Party, and that Certificate must be produced and left with the Lord Mayor or Recorder. See the Form of the Certificate of Conviction, No. 10.

By the Stat. 10 & 11 W. 3. cap. 23. All and every Person or Persons who shall take and prosecute any such Felons (as mentioned in the above Certificate) to Conviction, shall have a Certificate thereof gratis, from the Judge or Justices, expressing the Parish or Place where such Felony was committed; and in Case any Dispute happen about the Right of such Certificate, the Judge or Justices shall direct the Certificate into so many Shares as they shall think reasonable, which Certificate may be assigned over once, and and no more; and the Proprietor or Assignee shall, by Virtue thereof, be discharged from all Parish or Ward Offices in the Parish or Ward where such Felony was committed, which Certificate shall be inrolled by the Clerk of the Peace, for one Shilling Fee.

Persons having made Use of such Exemption, shall not then assign over such Certificate.

Persons

Persons slain by any such Felons aforesaid, by endeavouring to apprehend them, their Executors or Administrators shall have such Certificate as aforesaid gratis.

No Clerk of Assise, Clerk of the Peace, or other Persons, shall take any Fee of Persons bound by any Justice of the Peace, to appear as Evidence against any Traitor or Felon, for discharging of their Recognizance, nor shall take above two Shillings for drawing any Bill of Indictment against any such Felon, under Penalty of five Pounds to the Party aggrieved, with full Costs of Suit.

If any Clerk of Assise, Clerk of the Crown, Clerk of the Peace, Clerk of the Indictments, or other proper Officer, their Clerks or Deputies, draw any Bill defective, they shall draw new Bills gratis, or forfeit five Pounds, with full Costs of Suit, to be recovered by those that will sue for the same, by Action of Debt, &c. wherein no Effoin, &c. shall be allowed.

An Assignment of a Certificate (for Conviction of a Felon) by Indorsement.

KNOW all Men by these Presents, That I the within named C. D. of the Parish of *St. Martin in the Fields* in the County of *Middlesex*, Glover, in Pursuance of the Power given me by the Act of Parliament within mentioned, and in Consideration of the Sum of fifteen Pounds of lawful Money of *Great Britain*, to me in Hand paid by *E. F.* of the same Parish and County, Linen-Draper, the Receipt whereof I do hereby acknowledge, have bargained, sold, assigned, and transfer'd, and by these Presents do bargain, sell, assign, and transfer unto the said *E. F.* as well the Certificate within written, as all the Right, Interest and Demand of me the said C. D. thereto, and all Exemptions, Privileges, Benefit, and Advantage that may be had and made thereof, by Virtue of

the said Act of Parliament, as fully as I myself might or could have had, if these Presents had not been made. And I the said C. D. by these Presents do hereby covenant to and with the said E. F. that I have not assigned the said Certificate, other than by these Presents, nor have made use thereof myself, nor have done, nor shall hereafter do any Act, whereby the said E. F. shall or may be deprived of the Benefit or Advantage which he is intitled to thereby, and by Virtue of the said Act of Parliament. In Witness whereof, I have hereunto set my Hand and Seal this——Day of *June* in the——Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* and in the Year of our Lord One thousand seven hundred and sixty-one.

This must be signed, sealed, and delivered (as other Deeds) in the Presence of two Witnesses, who must subscribe the same.

Note ; *Before the Assignment is ingrossed upon the Back of the Certificate, you must carry the Certificate to the Stamp-Office, and have it stampd.*

The METHOD and FORM of Estreating Issues, Fines, Amerciaments, and forfeited Recognizances.

Caption of the Court.

Middlesex: **A**N Extract of all the Issues, Fines, Amerciaments, and Recognizances forfeited, and set to our Lord the King, at the General Quarter-Session of the Peace of our said Lord the King, holden at *Hicks's Hall* in *St. John Street*,
in

in and for the County of *Middlesex*, on *Monday* the fourth Day of——in the——Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before *Thomas Lane*, *John Martin*, *Anthony Chamberlain*, *Thomas Derveil*, *Jacob Harvey*, *Alexander Garret*, *John Poulson*, and *Clifford William Phillips*, Esqrs. Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed in the same County, *James Waller*, Esq; Clerk of the Peace of the County aforesaid, there attending for the Space of seven Days.

The Estreat of a Fine upon an Indictment.

Of <i>J. W.</i> late of the	<i>Put the Addition</i>	
Parish of <i>St. Clement</i>	<i>as laid in the In-</i>	
<i>Danes</i> , Butcher, for	<i>dictment.</i>	
a Trespas and Assault at the		
same Parish whereof he is indicted		s. d.
and convicted, and his Fine is set		vi viii
at six Shillings and		
Eight-pence, which	<i>If the Fine is</i>	
he paid to the She-	<i>paid to the She-</i>	
riff in Court.	<i>riff.</i>	

Note; *The Estreat must mention for what Offence the Fine was imposed.*

Where the Party is committed for Non-Payment of his Fine.

Of *John Davies*, late of the Parish
of *St. Giles in the Fields*, Labour-
er, for a Trespas, Assault and
Riot, at the Parish of *St. Paul*,

Covent Garden, whereof he is indicted and convicted, and his Fine is set at five Pounds, and he is committed to his Majesty's Gaol of *Newgate*, there to remain until he shall pay the said Fine.

l.
v

Of *Thomas Jackson*, late of the said Parish of *St. Giles in the Fields*, Labourer, for the like Offence, at the said Parish of *St. Paul, Covent Garden*, whereof he is indicted and convicted, and his Fine is set at five Pounds, and he is committed as above.

l.
v

The first Recognizance to answer.

Of *John Doe* of *Suffolk Street* in the *Strand*, in the Parish of *St. Martin in the Fields*, in the County of *Middlesex*, Blacksmith, because he came

In the second and other Recognizances to answer you say, to answer as above.

not now here to answer to all and singular such Things which against him on the Part of our said Lord the King,

l.
xx

should be objected, as by a certain Recognizance taken before *John Poulson*, Esq; one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, he undertook.

In the second and other following Recognizances you only say, before J. P. Esq; one of the Justices, &c. be undertook.

Of *John Roe* of *Thieving-Lane*, in
the Parish of *St. Margaret, West-*
minster, Joiner, one of the Pledges
of the said *John Doe*, because he
had him not to answer as above. } l.
x

Of *Margaret Manlove* of *Hornsey*, Wi-
dow, the other of the Pledges of the
said *John Doe*, for the like. } l.
x

Note; *When the Party or Parties (for whose Ap-
pearance the Recognizance is taken) are bound in the
same Recognizance in a Sum of Money, then the Se-
curity are called Pledges, and the Party is said to be
delivered to Bail.*

*In like Manner it is, where the Recognizance is
taken for the Appearance of divers Persons, and any
one of them be bound, there the Security are also called
Pledges.*

*The Form of an Estreat of a Recognizance where the
Offender is not bound.*

Of *Richard Fenn* of *Turn-again-Lane*,
in the Parish of *St. Andrew, Hol-*
bourn, Dyer, one of the Mainper-
nors of *William Wijeman*, because he
had him not now here to answer as } l.
above, as by a certain Recognizance } x
taken before *Robert Midford*, Esq;
one of the Justices, &c. he under-
took. }

Of *David Denn* of the same Place,
Pewterer, the other of the Mainper-
nors of the said *William* for the like. } l.
x

Note; *When the Party is not bound himself, then
the Security are called Mainpernors.*

In Case of Bail, it is usual (and very proper) to put the Principal or Principals first, and Security after; but sometimes the Justices Clerks invert the due Order of the Recognizance, as in the following Instance.

Of *Alexander Forecastle* of *St. James's, Westminster*, Tiresmith, one of the Pledges of the under-named *T. G.* and *B. D.* because he had them not now here to answer as above, as by a certain Recognizance taken as above he undertook. } l.
x

Of *Thomas Gunbill* of *Saffron-Hill* of the Parish of *St. Andrew Holbourn*, Peruke Maker, because he came not now here to answer as above, as by the same Recognizance he undertook. } l.
v

Of *Barnaby Deck* of *Hatton-Garden* in the Parish of *St. Andrew, Holbourn*, aforesaid, Wire-Drawer, because he came not to answer as above, as by the same Recognizance he undertook. } l.
v

Of *Anthony Tims* of *Mutton-Lane* in the Parish of *St. Giles in the Fields*, Butcher, the other of the Pledges of the said *T.* and *B.* because he had them not to answer as above. } l.
v

The Form of an Estreat of a forfeited Recognizance, to prosecute, and give Evidence in Case of Fraud.

Of *Jacob Tomson* of the Parish of *St. George, Hanover-Square*, Silver-Smith, because he came not now here to prosecute the Law with Effect, and give Evidence on the Behalf of our said

Lord the King, against J. T. in a
Case of Fraud and Misdemeanor,
as by a certain Recognizance, taken
before *Richard Newton*, Esq; one of
the Justices of our said Lord the
King, he undertook. } l.
x

*The Form of an Estreat of a forfeited Recognizance,
for not prosecuting a Traverse.*

Of *W. D.* of *Fleet Street* in the Pa-
rish of *St. Bridge*, alias *Brides*,
in the Ward of *Faringdon without*,
Silver Smith, because he came not
now here to prosecute his Traverse,
upon a certain Indictment of Tres-
pass and Assault, as by a certain Re-
cognizance he undertook. } l.
xx

Of *N. M.* of *Chancery-Lane* in the Li-
berty of the Rolls, and Parish of *St.*
Dunstan in the West, Victualler, one
of the Pledges of the said *William*,
because he had him not to prosecute
his Traverse as above. } l.
xx

Of *M. O.* of *N. F.* Weaver, the other
of the Pledges of the said *William*,
for the like. } l.
xx

Caption of a Session of Oyer and Terminer.

Middlesex. **A**N Extract of all the Issues, Fines,
Amerciaments, and Recognizances
forfeited, and set to our said Lord the King, at the
Session of *Oyer and Terminer* of our said Lord the
King, holden at *Hicks's Hall* in *St. John Street*, in
and for the County of *Middlesex*, on *Monday* the
fourth Day of *June* in the——Year of the Reign
of our Sovereign Lord *George the Third*, now
King

King of Great Britain, &c. before *Thomas Lane*, Esq; *Sir John Gonson*, Kt. *John Martin*, *Anthony Chamberlain*, Esqrs. and others their Fellows Justices of our said Lord the King of Oyer and Terminer.

Note; *There must be four Gentlemen in the Commission of Oyer and Terminer to make a Session.*

Caption of a Session of Gaol-Delivery.

Middlesex. **A**N Extract of all the Issues, Fines, Amerciaments, and Recognizances forfeited, and set to our said Lord the King, at the Session of Gaol-Delivery of *Newgate*, of our said Lord the King, holden at *Justice Hall* in the *Old Bailey*, in the Suburbs of the City of *London*, for the County of *Middlesex*, on *Wednesday* the sixth Day of *June* in the——Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before the Right Honourable *Sir Robert Westley*, Kt. Lord Mayor of the City of *London*, *Sir Thomas Parker*, Kt. Lord Chief Baron of his Majesty's Court of *Exchequer*, *Thomas Denison*, Esq; one of the Justices of our said Lord the King, assigned to hold Pleas before the King himself, *Henry Marshal*, Esq; *Sir Richard Hoare*, Kt. Alderman of the City of *London*, and other their Fellows Justices of our said Lord the King, assigned to deliver his said Gaol of *Newgate* of the Prisoners therein being.

Of *John Davies* of the Parish of *St. Martin in the Fields*, Cook, one of the Mainpernors of *Sarah* the Wife of *J. W.* because he had her not now here, to prosecute the Law with Effect, and give Evidence on the Behalf of our said Lord the King, against *W. M.* in Case of

l.

x

Felony,

Felony, as by a certain Recognizance, taken before *Robert Midford*, Esq; one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, he undertook.

Of *John Dobikin* of the same Parish, Painter, the other of the Mainper-
nors of the said *Sarah* for the like. } 1.
xx

Note; *A Feme Covert cannot be bound by Recognizance, tho' sometimes Justices Clerks are so stupid to take their Recognizances only; but such Recognizances cannot be estreated.*

The Estreats upon the Rolls stand in this Order,
viz.

1. The Fines, &c.
2. Recognizances to answer.
3. Recognizances to prosecute Traverses.
4. To prosecute and give Evidence.

N. B. *Where a Person is bound by Recognizance to prefer a Bill of Indictment at the Session of the Peace, in Case of Felony, and give Evidence to the Grand Jury there; and in Case the Bill is found to be true, then to prosecute and give Evidence at the Session of Gaol-Delivery; in Case the Party make Default in Performance of the Condition of such Recognizance, in both Instances the Recognizance may be estreated at either Session.*

By the Stat. 22 & 23 Car. 2. c. 22. 'tis enacted,
That all Fines, Post-Fines, Issues, Amerciaments, forfeited Recognizances, Sum or Sums of Money paid in Lieu or Satisfaction of them, or any of them, and all other Forfeitures whatsoever, which shall be set, imposed, lost or forfeited in his Majesty's Courts of King's Bench, Common Bench, or Exchequer, shall be certified and estreated into the said Court of Exchequer twice every Year

Fines &c. imposed in the Court of King's Bench, Common Bench, or Exchequer, to be estreated into the Court of Exchequer twice every Year, viz.

yearly

Hilary Term.

Trinity Term.

50*l.* Penalty
Officer making
Default.

Saving out of
the Act.

Fines before
Judge of Assize,
Clerk of Mar-
ket, Commis-
sioners of Sewers,
to be estreated
twice a Year.

yearly (that is to say) all Fines, &c. paid or to be paid in Lieu or Satisfaction of them, or any of them, and all other Forfeitures whatsoever, arising in any of the said Courts, from the beginning of every Hilary Term in every Year, to the Beginning of every Trinity Term in every Year, shall be certified and estreated into the said Court of Exchequer, the last Day of every Trinity Term in every Year.

Every Officer and Minister to whom it doth, ought, or shall belong, &c. to make Certificate or Estreat of any the said Fines or Forfeitures, making Default, to forfeit and pay fifty Pounds for every Default or Failure; one Moiety to the Use of his Majesty, &c. and the other to such Persons that shall or will sue for the same in any Court of Record, by Action of Debt, Bill, or Information, wherein no Wager of Law, Essoin, or Protection shall be allowed.

Provided, That nothing in this Act shall alter or change the Course used in the certifying or estreating of Issues from the said Court of Common Bench, nor of Fines pro Licentia Concordandi, commonly called Post-Fines, being Termly certified and estreated in the said Court of Exchequer, nor the Termly estreating Issues certified out of the Office of Pleas belonging to the said Court of Exchequer, to the Clerk of Estreats there.

That all Fines, &c. set, imposed, lost, or forfeited before a Judge of Assize, Clerk of the Market, or Commissioners of Sewers throughout England, shall be estreated into the said Court of Exchequer twice in every Year (that is to say) from the Feast of Saint Michael

Michael the Archangel in every Year, to the Feast of Easter in every Year, shall be certified and estreated into the said Court of Exchequer, before the first Day in Trinity Term in every Year.

Persons making Default forfeit fifty Pounds, recoverable as above. Forfeiture.

The Method of obtaining a QUIETUS for an Estreated Recognizance, in the Court of Exchequer, and the Forms of Certificates upon Constats.

Notwithstanding Recognizances are forfeited and estreated, when the Parties bound do neglect to perform the Conditions; yet the Court of *Exchequer* (when there appears no obstinate or wilful Neglect) will grant Orders for *Quietus*. The Method to obtain such Orders is in Manner following:

You must first get a *Constat* of the estreated Recognizance from the *Pipe-Office* (for which you pay 5s. 4d.) then carry the *Constat* to the Clerk of the Peace of the County, where the Recognizance became forfeited, who will make out a Certificate (how the same became forfeit) upon the Back, or Bottom of the *Constat*, for which, in *Middlesex*, you pay but 2s. 6d.

The

The Form of a Certificate where the Party is bound to answer, and no Indictment exhibited.

To the Right Honourable Sir T. P. Lord Chief Baron of his Majesty's Court of Exchequer, and the Rest of the Barons of that Honourable Court.

Middlesex. **T**HESE are to certify, That at the Session above-mentioned, T. B. Esq; then and yet one of his Majesty's Justices of the Peace for the County of *Middlesex*, did certify the Recognizance above specified, *conditioned for the personal Appearance of the above-named E. G. at the same Session to answer to all such Matters of Misdemeanor, as on his Majesty's Behalf should be then and there objected against him by A. L. for assaulting, beating, and wounding of her;* at which same Session the said E. G. did not appear, according to the Condition of the said Recognizance, whereby the same became forfeited, and was accordingly estreated into his Majesty's Court of *Exchequer*: And these are further to certify, that upon Search made among the Records of my Office, I do not find any Indictment against the said E. G. for the said Offence. Dated the——Day of *November* 1760.

The Condition of the Recognizance must be set forth.

J. W. Clerk of the Peace for the County of *Middlesex*.

The

The Form of a Certificate where the Party neglects to prosecute and give Evidence.

To the Right Honourable, &c. (directed as in the former)

Middlesex. **T**HES E are to certify, That at the Session above-named, R. D. Esq; then and yet one of his Majesty's Justices of the Peace for the County of *Middlesex*, did certify the Recognizance in Part above specified, wherein the above named N. S. and T. B. were severally bound in forty Pounds each, upon Condition, *that the said N. S. and T. B. should personally appear at the same Sessions, to prosecute the Law with effect, and give Evidence upon a Bill of Indictment to be exhibited by them to the Grand Jury against A. D.* on a violent Suspicion of stealing, out of The Condition, &c. the House of the said N. S. a Firkin of Soap, which was found in the Custody of the said A. D. and if the said Bill should be found and returned by the Grand Jury to be a true Bill, then they were to appear at the Sessions of Gaol-Delivery of Newgate, to be holden for the same County, to prosecute and give Evidence against the said A. D. upon the said Indictment, for the Offence aforesaid; at which same Session of the Peace the said N. S. and T. B. did not, nor either of them did appear, and prosecute, and give Evidence against the said A. D. according to the Condition of the said Recognizance; nor did they, or either of them, exhibit to the Grand Jury any Bill of Indictment against the said A. D. for the said Offence; whereby the said Recognizance became forfeited, and was accordingly estreated into his Majesty's Court of *Exchequer*. Dated the—— Day of——1760.

J. W. Clerk of the Peace for the County of *Middlesex*.

The

The Form of a Certificate, where the Party neglects to appear at the proper Session he is bound to answer, at which Time he is indicted for the Offence, and comes at a Session subsequent to the Forfeiture of his Recognizance, and confesses the Indictment.

To the Right Honourable, &c. (directed as in the first.)

THESE are to certify, that at the Sessions *(when by Indorsement)* within mentioned, the within J. B. stood bound by his Recognizance within specified, conditioned for the
 The Condition, *personal Appearance of the said J. B.*
 &c. *at the same Session to answer what should be objected against him by J. W. one of the Headboroughs of the Parish of St. Leonard Shore-ditch, for insulting and assaulting him in the Execution of his Office.* And these are further to certify, that at the same Session, the said J. B. was indicted for the Offence aforesaid, at which same Session the said J. B. did not appear, pursuant to the Condition of the said Recognizance, whereby the same became forfeited, and was accordingly estreated into his Majesty's Court of *Exchequer*. And these are further to certify, that after the said Recognizance was so estreated, to wit, at the General Quarter Session of the Peace, holden at *Hicks's-Hall*, in *St. John Street*, in and for the County of *Middlesex*, on the Day of 1760, the said J. B. came into Court and confessed the said Indictment, and was fined three Shillings and four-pence, which he paid to the Sheriff of the said County in Court. And these are further to certify, that upon Search made among the Records in my Office, I do not find

find any other Indictment against the said J. B.

Dated the Day of 17
J. W. Clerk of the Peace for the
County of Middlesex.

When you have got a Constat and Certificate, you must have Affidavits, to shew the Court of Exchequer what Impediment prevented the Party from performing the Condition of his Recognizance, upon which you must move the Court by Council; and if there be any reasonable, or equitable Cause assigned, the Court will order a *Quietus*, which Order is made out by the Deputy Remembrancer whose Office is in the King's-Bench Walks, in the Temple) to whom, for the Order, you pay two Pounds eleven Shillings: When you have got the Order from the Remembrancer's Office, you must carry the same to the Pipe-Office, in Gray's Inn, and the Clerk of the Pipe thereupon makes a *Quietus*, for which you pay one Pound twelve Shillings.

When Clerks of the Peace, &c. are to deliver their Estreats.

By Stat. 22 & 23. C. 2. c. 22. it is enacted, That all Clerks of the Peace, and Town Clerks, within England, shall make and deliver to the Sheriff or Sheriffs of the County, City, or Town Corporate, where the Sessions of the Peace are kept, within twenty Days after the twenty-ninth Day of September, in every Year yearly, a perfect Estreat, or Schedule of all Fines, Issues, &c. set, lost, or forfeited, in any of the said Sessions of Peace respectively, which shall be held before Michaelmas by or upon any Person or Persons whatsoever, due to his Majesty; and also on or before the second Monday after the Morrow of All Souls, make and deliver unto the said Court of Exchequer,

F

a true

a true and perfect duplicate Certificate and Estreat, of such Estreats so delivered to the Sheriffs aforesaid. That the Sheriffs may be charged with the Monies levied and received, on Pain that every such Person offending herein, for every Default, to forfeit fifty Pounds, one Moiety to his Majesty, and the other to such as will sue for the same, to be recovered as above.

Officers withholding any Fine, &c. forfeit treble the Value.

This Act was made perpetual by Stat. 4 & 5 W. & M. c. 24.

Record of Acquittal for Felony, where the Defendants are under Recognizance to appear.

Middlesex. **B**E it remembred, that at the General Quarter Session of the Peace of our Sovereign Lord the King, holden for the County of *Middlesex*, at *Hicks's Hall*, in *St. John Street*, in the same County, on *Monday*, the third Day of *December*, in the Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*, &c. before *T. L. J. M. E. B. Esqrs*; and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, by the Oath of *J. F. Grand Jury. Gentlemen, &c. (all the Names of the Grand Jury)* good and lawful Men of the County aforesaid, then and there sworn and charged to inquire for our said Lord the King, for the Body of the said County. It is presented in Manner and Form as followeth; that is to say, *Middlesex. The Jurors, &c. (recite the whole Indictment)* Whereupon the Sheriff of the County aforesaid, is commanded that he do not omit, by Reason

Reason of any Liberty in his Bailiwick; but that he take the said *W. W.* and *E. L.* to answer to the Premises, which said Indictment, the said Justices of the Peace, afterward, to wit, at the Delivery of the Gaol of our said Lord the King, of *Newgate*, holden for the County aforesaid, at *Justice Hall*, in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday*, the sixteenth Day of *January*, in the said Year of the Reign of our said now Lord the King, before Sir *R. L.* Knight, Mayor of the City of *London*, Sir *T. P.* Chief Baron of the *Exchequer* of our said Lord the King, *T. B.* one of the Justices of our said Lord the King, of the *Common Pleas*, *J. S.* Esq; and others their Fellows, Justices of our said Lord the King, assigned to deliver his Gaol of *Newgate* of the Prisoners therein being, by their proper Hands to deliver here in Court of Record, in Form of Law to be determined; and thereupon at the same Delivery of the Gaol of our said Lord the King, of *Newgate* aforesaid, holden for the County aforesaid, at *Justice Hall* aforesaid, on the said *Wednesday*, the sixteenth Day of *January*, in the Year aforesaid, before the Justices of our said Lord the King, last above named, and others their Fellows aforesaid, Come the said *W. W.* and *E. L.* pursuant to Recognizances by them, and their Pledges in this Behalf first entred into, being brought to the Bar here in their proper Persons, who are committed to *T. W.* Esq; and *R. A.* Esq; Sheriff of the said County of *Middlesex*, and they the said *W. W.* and *E. L.* forthwith concerning the Premises in the said Indictment above specified and charged on them as above, being severally asked in what Manner they would be acquitted thereof, do severally say, that they are Not Guilty thereof; and hereupon for Good and Ill, they severally

Where the Parties are under a Recognizance to answer for Felony.

Plea.

verally put themselves upon the Country; therefore let a Jury thereupon immediately come before the said Justices of our said Lord the King last above named, and others their Fellows aforesaid, here, by whom the Truth of the Matter will be the better known, and who have no Affinity to the said *W. W.* and *E. L.* or either of them, to recognize upon their Oath, whether the said *W. W.* and *E. L.* be guilty of the Premises in the Indictment aforesaid, above specified, or not. And the Jurors of the said Jury, by the said Sheriff for this Purpose impannelled and returned, to wit, (*here name all the Petty Jury*) being called, come, who being chosen, tried, and sworn to speak the Truth of and upon the Premises aforesaid, in the Indictment aforesaid, above specified, do say, upon their Oath, that the said *W. W.* and *E. L.* are not, nor either of them is guilty of the Premises aforesaid, in the Indictment aforesaid, above specified, in Manner and Form as the said *W. W.* and *E. L.* for themselves above by their Plea, have severally alledged; nor did they withdraw themselves, nor did either of them withdraw himself on that Occasion; upon which it is considered by the Court here, that the said *W. W.* and *E. L.* and each of them, of the Premises aforesaid, in the Indictment aforesaid, above specified, be discharged, and go without Delay.

Cometh the said *A. N.* in his proper Person, and rendereth himself a Prisoner to the King's said Gaol of *Newgate*, for the County of *Middlesex* aforesaid under the Custody of *T. W.* Esq; and *R. A.* Esq; Sheriff of the said County of *Middlesex*, on that Occasion, which said *A. N.* being brought to the Bar here by the said Sheriff, is committed

If the Party
surrenders
himself.

committed to the same Sheriff, &c. and forthwith, &c. as above.

Cometh the said H. Y. under the Custody of R. A. Esq; and Sir. H. H. Kt. Sheriff of the said County (into whose Custody in the Gaol of our said Lord the King, of *Newgate*, for the Cause aforesaid, he was before committed) being brought to the Bar here in his proper Person, who is committed to the said Sheriff, &c. and forthwith, &c. as above.

If the Party was committed and continues in Custody till Trial.

Record of Conviction, Felony and Robbery, where the Defendant is in Custody.

Middlesex. **B**E it remembred, that at the General Quarter Session of the Peace, holden for the County of *Middlesex*, at *Westminster* in the said County, on *Monday*, the second Day of *April*, in the Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, before *Thomas Lane*, Esq; *Sir Edward Lawrence*, Kt. *Thomas Burdus*, Esq; and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the said County, and also to hear and determine diverse Felonies, Trespases and other Misdeeds, committed in the same County, that the Session of the Peace is adjourned by the said Justices of our said Lord the King, and others their Fellows aforesaid, here, until *Tuesday* the third Day of *April*, in the Year aforesaid, at nine of the Adjournment. Clock in the Forenoon of the same Day, at *Hicks's-Hall*, in *St. John Street*, in the said County, then and there to be held, to do further as the Court there should consider, and so forth. And on the said *Tuesday*, the third Day of

Caption of the Court of Session of the Peace.

April, in the Year aforesaid, that General Session of the Peace was holden by Adjournment aforesaid, for the said County, at *Hicks's-Hall*, aforesaid, in the said County, before the Justices above-named, and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the said County, and also to hear and determine diverse Felonies, Trespases, and other Misdeeds, committed in the said County; at which same General Quarter Sessions of the Peace, holden by Adjournment aforesaid, at *Hicks's-Hall*, aforesaid, in and for the County aforesaid, before the same Justices of our said Lord the King, above-named, and others their Fellows aforesaid. upon the Oath of *Thomas Mills*,

Gent *Thomas Corderoy*, *Nathaniel*

Grand Jury.

Crosley, *James Murrey*, *William Hutson*, *James Miller*, *John Gillum*, *Samuel Gould*, *Samuel Isaac Colleno*, *John Hunter*, *John Hains*, *John Walker*, *William Shepherd*, *John Underwood*, *John Stephens*, *Peter Buckmaster*, *William Priest*, *Richard Wyer*, *John Quarrel*, *Joseph Coggin*, and *John Griffis*, good and lawful Men of the County of *Middlesex* aforesaid, then and there sworn and charged to enquire for our said Lord the King, for the Body of the County aforesaid. It is presented in Manner and Form as followeth; that is to say, *Middlesex*, The Jurors for our Lord the King upon their Oath present, That *J. J.* late of

the Parish at *St. Giles's Cripplegate*,

Indictment.

in the County of *Middlesex*, Labourer, on the seventh Day of *September*,

in the

Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County of *Middlesex* aforesaid, in the King's Highway there, in and upon one *J. W.* in the Peace of God, and our said Lord the King, in the said King's Highway, then and there being,

felo-

feloniously did make an Assault, and him the said *J. W.* in bodily Fear and Danger of his Life in the Highway aforesaid, then and there feloniously did put, and one Silver Watch, of the Value of three Pounds, and twenty Shillings in Monies numbered, of the Goods, Chattels, and Monies of the said *J. W.* from the Person and against the Will of him the said *J. W.* in the Highway aforesaid, then and there violently and feloniously, did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity; wherefore the Sheriff of the County aforesaid, is com-

manded not to omit, for any Liberty in his Bailiwick, but take the said

J. J. to answer to the Premises, which said Indictment the said Justices of the Peace, afterward, to wit, at the Delivery of the Gaol of our said Lord the King of *Newgate*, holden for the County aforesaid, at *Justice-Hall*, in the *Old Bai-*

ley, in the Suburbs of the City of *London*, on *Wednesday* the fourth Day of the same Month of *April* in

the Year aforesaid, before Sir *Robert Ladbroke*, Kt. Mayor of the City of *London*, *Charles Clarke*, Esq; one of the Barons of the *Exchequer* of our said Lord the King, Sir *John Bernard*, Sir *Richard Hoare*, Kts. Aldermen of the City of *London*, and others their Fellows Justices of our said Lord the King, assigned to deliver his Gaol of *Newgate*, of the Prisoners therein being, by their proper Hands do deliver here in Court of Record, in Form of Law, to be determined, and thereupon at the same Delivery of the Gaol of our said Lord the King, of *Newgate* aforesaid, holden for the County aforesaid, at *Justice Hall* aforesaid, on the said *Wednesday*, the fourth Day of *April*, in the Year aforesaid, before the said Justices of our said Lord the King last above-named, and others their Fellows aforesaid,

Caption of the Court of Goal Delivery.

Cometh the said J. J. under the Custody of *Thomas Wierbottom*, Esq; and *Robert Alsop*, Esq; Sheriff of the County aforesaid, (in whose Custody in the Gaol of *Newgate* aforesaid, for the Cause aforesaid, was before committed) being brought to the Bar here in his proper Person, is committed to the said Sheriff, and forthwith, concerning the Premises in the said Indictment above specified, and charged on him as above, being asked in what

Manner he would be acquitted thereof; the said J. J. saith, that he is

Prisoner's Plea. Not Guilty thereof, and concerning this for Good and Ill, he puts himself upon his Country; therefore let a Jury thereupon immediately come before the said Justices of our said Lord the King, last above-named, and others their Fellows aforesaid here, by whom, &c. and who are of no Affinity to the said J. J. to recognize, upon their Oaths, whether the said J. J. be guilty of the Felony and Robbery aforesaid, or not; and the Jurors of the said Jury, by the said Sheriff to this

Matter impannelled, and returned
Petty Jury. (to wit) *Thomas Wyon*, *Thomas Russell*, *Joseph Wooten*, *William Palmer*, *John Newman*, *John Ball*, *William Covey*, *Thomas Day*, *John Philmore*, *John Tredwell*, *Thomas Dovey*, and *John Hall*, being called, come, who being chosen, tried, and sworn to speak the Truth of and concerning the Premises, aforesaid, say upon their

Oath, that the said J. J. is guilty
Verdict. of the Felony and Robbery aforesaid, in the Indictment specified, charged upon him above in Manner and Form as by the said Indictment above against him is supposed; and that he at the Time of committing the said Felony and Robbery, or at any Time since, had no Goods or Chattels, Lands or Tenements, to the Knowledge of the said Jurors; and upon this it is required by the

the Court here, of the said J. J. if he hath, or knows any Thing to say for himself, why the Court here ought not to proceed to Judgment and Execution concerning him upon the said Verdict, who says nothing, besides, what at first he had said; whereupon all and singular the Premisses being seen and understood by the Court here; it is considered by the Court here, *Judgment.* that the said J. J. be hanged by the Neck, until he be Dead.

Record of the Discharge of a Recognizance at the General Quarter Session of the Peace.

Caption of the Court.

BE it remembred, that at the General Quarter Session of the Peace of our Sovereign Lord the King, holden at *Hicks's Hall*, in *St. John-Street*, in and for the County of *Middlesex*, on *Monday* the twenty-fifth Day of *June*, in the Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, France, and Ireland*, Defender of the Faith, before *Thomas Lane, Esq;* *Sir Edward Lawrence, Kt. Thomas Burdus, Esq;* and others their Fellows Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespases, and other Misdeeds committed in the same County, *James Fraser, Esq;* then one of the Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine diverse Felonies, Trespases, and other Misdeeds committed in the same County, doth certify and deliver here in Court a certain Recognizance taken before him, the third Day of *May*, One thou-

The Justice who takes the Recognizance.

The Date of the Recognizance.

sand

*Recital of the
Recognizance.*

and seven hundred and forty-seven, of Record, to be determined in Form of Law, the Tenor of which same Recognizance is as followeth; *Middlesex, J. D. of Bishop's-Court* (in the Liberty of the Rolls) *Chancery-Lane*, in the Parish of *St. Dunstan in the West*, Watch-Maker, doth acknowledge to owe to our Sovereign Lord the King, the Sum of forty Pounds; *E. H. and J. B.* of the same Place, Gold Chain-Makers, severally the Sum of twenty Pounds, on Condition, that the said *J. D.* shall personally appear at the next General Quarter Sessions of the Peace, to be holden at *Hicks's-Hall*, in *St. John-Street*, for the said County, to answer to all such Matters of Misdemeanor, as on his Majesty's Behalf shall be then and there objected against him by *H. M.* for cheating and defrauding him of Diamonds of the Value of forty Pounds, or thereabout, under false Colours and Pretences, and not Depart the Court without Licence, then this Recognizance to be void, otherwise in full Force; and afterward, to wit, at the same General Quarter Session of the Peace of our said Lord the King, holden for the County aforesaid, at *Hicks's-Hall*, in *St. John-Street*, in the County aforesaid, on the said *Monday* the twenty-fifth Day of *June*, in the Year aforesaid, before the aforesaid Justices of our said Lord the King, and others their Fellows aforesaid, being the next General Quarter Session of the Peace, holden for the County aforesaid, after the said third Day of *May*, One thousand seven hundred and forty seven, the aforesaid *J. D.* cometh in his own proper Person, and thereupon publick Proclamation is made, that if any one would inform the said Justices here against the said *J. D.* he might come forth and be heard; and because the aforesaid Justices and Court here, do find nothing ill of him the said *J. D.* it is considered by the Court

Court here, that the said *J. D.* be discharged of his Recognizance aforesaid, and that he go thereof without Day.

Record of Conviction of a Person for keeping a disorderly House, upon the Commission of Oyer and Terminer at Sessions.

Middlesex. **B**E it remembered, That at the Session of *Oyer and Terminer* of our Sovereign Lord the King holden at *Hicks's Hall* in *St. John-Street* in and for the County of *Middlesex*, on *Monday* the eighth Day of *July*, in the Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. before *Thomas Lane, Edward Barker, John Milner*, Esqrs; and others their Fellows Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under his Great Seal of *Great Britain*, to the same Justices above named, and others, and any four or more of them, directed to inquire more fully the Truth, by the Oath of good and lawful Men of the said County of *Middlesex*, and by other Ways, Means and Methods by which they should or might better know (as well within Liberties as without) by whom the Truth of the Matter may be better known, of all Treasons, Misprisions of Treason, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms or Dominions whatsoever; and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, Conventicles, unlawful uttering of Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenances, Oppression, Champerty, Deceits, and

and all other Evil Doings, Offences, and Injuries whatsoever; and also of the Accessaries of them, within the County aforesaid (as well within Liberties as without) by whomsoever, and in what Manner soever done, committed or perpetrated; and by whom or to whom, when, how and after what Manner, and of all other Articles and Circumstances concerning the Premises, and every of them, or any of them in any Manner whatsoever; and the said Treasons, and other the Premises, to hear and determine, according to the Laws and Customs of *England*, by the Oath of (*here insert the Names of all the Grand Jury*) good and lawful Men of the said County of *Middlesex*, then and there sworn and charged to inquire for our said Lord the King for the Body of the said County, it is presented in Manner and Form as followeth, to wit, *Middlesex*, The Jurors, &c. (*here insert the Indictment verbatim*) whereupon the Sheriff of the said County of *Middlesex* is commanded that he cause the said *A. B.* to come to answer, &c. And afterwards, to wit, at the same Session of *Oyer and Terminer* of our said Lord the King holden at *Hicks's-Hall* in *St. John-Street* aforesaid, in and for the said County of *Middlesex*, by Adjournment, on *Wednesday* the Tenth Day of the same Month of *July*, in the Year aforesaid, before the Justices of our said Lord the King, above named, and other their Fellows aforesaid, cometh the said *A. B.* in his own proper Person, and having heard the said Indictment read, the said *A. B.* saith, that he is not Guilty thereof, and concerning thereof he putteth himself upon the Country; and *James Waller*, Esq; Clerk of the Peace for the County aforesaid, who prosecutes for our said Lord the King in this Behalf doth the like; therefore let a Jury thereupon come before the Justices of our said Lord the King at the next Session of *Oyer and Terminer* of our said Lord

Lord the King, to be holden at *Hicks's-Hall* in *St. John-Street* afore said, in and for the said County of *Middlesex*, by whom the Truth of the Matter may be better known, and who have no Affinity to the said *A. B.* to recognize, upon their Oath, if the said *A. B.* be guilty of the Premises afore said or not; because as well the said *James Waller*, who prosecutes for our said Lord the King in this Behalf, as the said *A. B.* have put themselves on that Jury; the same Day is given as well to the said *James Waller*, Esq; who prosecutes for our said Lord the King in this Behalf, as to the said *A. B.*; at which said next Session of *Oyer and Terminer*, to wit, at the Session of *Oyer and Terminer* of our said Lord the King, holden at *Hicks's Hall*, in *St. John Street*, afore said, in and for the said County of *Middlesex*, on *Monday* the twenty-sixth Day of *August*, in the said — Year of the Reign of our said Lord the King, before *Thomas Lane*, Esq; *Edward Barker*, Esq; *Sir William Ogborne*, Kt. *John Milner*, Esq; and others their Fellows, Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under his Great Seal of *Great Britain* to the same Justices last above-named, and others, and any four or more of them, directed to inquire more fully the Truth, by the Oath of good and lawful Men of the said County of *Middlesex*, and by other Ways, Means, and Methods, by which they should or might better know (as well within Liberties as without) by whom the Truth of the Matter may be better known of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms or Dominions whatsoever; and of Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, Conventicles; unlawful uttering of Words,

Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligences, Concealments, Maintenance, Oppression, Champerty, Deceits, and all other evil Doings, Offences, and Injuries whatsoever; and also of the Accessaries of them within the County aforesaid (as well within Liberties as without) by whomsoever and in what Manner soever done, committed, or perpetrated; and by whom or to whom, when, how, and after what Manner; and of all other Articles and Circumstances concerning the Premises, and every of them, or any of them in any Manner whatsoever; and the said Treasons and other the Premises to hear and determine according to the Laws and Customs of *England*, Cometh as well the said *James Waller*, who prosecutes for our said Lord the King, in this Behalf, as the said *A. B.* in his own proper Person; and the Jurors of that Jury, by *T. N.* Esq; and *I. B.* Esq; Sheriff of the said

The Names of
all the Petit
Jury.

County of *Middlesex*, to this Matter impannelled and returned, to wit, (*the Petty Jury*) being called, come, who being chosen, tried, and sworn

to speak the Truth of and upon the Premises in the Indictment aforesaid, above specified, do say, upon their Oath, * that the said *A. B.* is Guilty of the Trespass and Offence aforesaid, in the Indictment aforesaid, above specified, in Manner and Form as by the said Indictment above against him

Judgment. is alledged, whereupon it is considered by the Court here, that the said *A. B.* for the Trespass and Of-

fence aforesaid, in the Indictment aforesaid, above specified, be taken, &c. which said *A. B.* being present here, is fined for the said Trespass and Offence, three Shillings and Four-pence, which he paid to the Sheriff of the said County of *Middlesex*,
in

in Court here, to the Use of our said Lord the King, in Court; and the said *A. B.* is committed to the House of Correction, at *Clerkenwell*, in the said County of *Middlesex*, there to remain, and be kept to hard Labour for the Space of six Calendar Months.

* *On an Acquital.*

That the said *A. B.* is Not Guilty of the Trespas and Offence aforesaid, in the Indictment aforesaid above specified, in Manner and Form as the said *A. B.* for himself above by his Plea hath alledged; whereupon it is considered by the Court here, that the said *A. B.* of the Trespas and Offence aforesaid, in the Indictment aforesaid above specified, be discharged, and go thereof without Day.

If the Defendant be acquitted.

Record on the Commission of the Peace.

Note, If the Offence be on the Commission of the Peace, you must say, "*Middlesex*. Be it remembered, That at the General (or General Quarter) Session of the Peace of our Sovereign Lord the King, holden at *Hicks's Hall* in *St. John Street*, in and for the County of *Middlesex*, on the Day of in the Year, &c. before *NN, KK, RR, and ZZ*, Esqrs, Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespas, and other Misdeeds committed in the same County," by the Oath of (*the Grand Jury*) so go on throughout the Record; and instead of *Oyer and Terminer*, say, *Session of the Peace*; and of the Words assigned by *Letters Patent*, &c. say, *assigned to keep the Peace*, &c.

T H E
O F F I C E
O F T H E
Custos Rotulorum.

The Manner of appointing the Custos Rotulorum.

THE CUSTOS ROTULORUM is he that hath the Keeping of the Rolls or Records of the Sessions of the Peace, and of the Commission of the Peace. He is always a Justice of the Peace and *Quorum*, in the County where he hath his Office; and by his Office he is rather termed an Officer, or Minister, than a Judge, because the Commission of the Peace lays this special Charge, by express Words, upon him, *That he should cause the Writs, Precepts, Procefs, and Indictments, to be before him and his Fellow Justices, &c.*

Before the making of the Statute 37 H. 8. c. 1. the Lord Chancellor of *England* for the Time being, had, by reason of his Office, the Nomination and Appointment of the *Custos Rotulorum* within every Shire of *England* and *Wales*, and other the King's Dominions, &c. and in like Manner, every Person, who enjoyed the Office of *Custos Rotulorum*, had till then of late the Nomination and Appointment

ment of Clerk of the Peace, within the Shire where he enjoyed the said Office of *Custos Rotulorum*; and sundry Persons not learned in the Law, nor able, for want of Knowledge and Learning, to occupy and exercise the said Office of *Custos Rotulorum*, and of the Clerkship of the Peace, had by various Means, got, for the Term of their Lives, of the King's Majesty, several Grants, by his Letters Patent to them made, of such Clerkships of the Peace; by reason whereof, and for that the Parties to whom the said several Grants had been so made, not being sufficiently learned to execute their Offices, many Indictments, as well of Felony, Murder, and other Offences and Misdemeanors, and the Process awarded upon the same Indictments, had been frustrated and made void, sometimes by reason of the negligent Engrossing and Keeping of the said Indictments, and sometimes by reason of the Imbezzling or Rasure of the Indictments; but also diverse Bargains and Sales of Manors, Lands and Tenements, had and made between Party and Party, became frustrate and void, for want of sufficient Enrolment thereof, by the Clerks of the Peace, to the great Hindrance of Justice, and to the Disinheritance of diverse of the King's Subjects: For Reformation whereof, by the said Statute 37 H. 8. c. 1. 'tis enacted, *That no Person shall be nominated and appointed to the said Office and Offices of Custos Rotulorum, within any Shire of England, Wales, and other the King's Dominions, &c. but such as shall have a Bill signed with the King's Hand for the same; which Bill signed shall be a sufficient Warrant, by the Authority aforesaid, to the Lord Chancellor of England, and the Lord Keeper of the Great Seal, for the Time being, to make from Time to Time, Commission or Commissions, assigning and authorizing thereby the same Person to be Custos Rotulorum, until the King hath by another Bill, assigned with his*

own Hand appointed and ordained one other Person to have, occupy, and exercise the same Office of Custos Rotulorum; and that the said Person appointed and assigned to be Custos Rotulorum, as is abovesaid, shall and may occupy, exercise and enjoy the same Office of the Custos Rotulorum, by himself, or by his sufficient Deputy, learned in the Laws of this Realm, and meet and able to supply the said Office, according to the Tenor of the said Grant and Commission. And further, That every Custos Rotulorum for the Time being, shall, in every Shire of this Realm, Wales, and other the King's Dominions, &c. nominate, elect, appoint, and assign, all and every Person and Persons which thereafter shall be Clerks of the Peace within any of the said Shires of this Realm of England, Wales, and other the King's Dominions, &c. and to give and grant the said Office and Offices of Clerkship of the Peace, to such able Person instructed in the Laws of this Realm, as shall be able to exercise and occupy the same, to hold and enjoy the same during the Time that the said Custos Rotulorum should occupy and exercise the aforesaid Office of Custos Rotulorum; so that the said Clerk demean himself justly and honestly. And that it shall be lawful to every such Grantees of the said Clerkship, to occupy and enjoy the same Office of the Clerkship of the Peace by himself, or his sufficient Deputy, instructed in the Laws of this Realm, so that the said Deputy shall be admitted, taken, and reputed by the said Custos Rotulorum, to be sufficient and able to exercise, occupy, keep and enjoy the same Office of Clerkship of the Peace.

Provided, that the Archbishop of York, the Bishop of Durham, the Bishop of Ely, and every of their Successors, and all and every Person or Persons, Corporations and Bodies corporated to whom the King's Majesty, or any of his noble Progenitors, by his or their Letters Patent, have given and granted any Liberty and Authority, or otherwise have Authority by
other

other lawful Means or Ways, to ordain, make and constitute any of the said Officers of Custos Rotulorum, or Clerk of the Peace, within any County Palatine or other Place, shall and may have and enjoy the same Liberty and Authority, according as they before had and enjoyed the same, any Thing in the said Act made to the contrary notwithstanding.

By the Stat. 1. Will. & Mar. Stat. 1. c. 21. §. 5. The Custos Rotulorum, or other Person to whom it shall belong to appoint the Clerk of the Peace, shall, where the Office of Clerk of the Peace, shall be void, nominate a sufficient Person residing in the County or Place, to exercise the same by himself or his sufficient Deputy, for so long Time as such Clerk of the Peace shall well demean himself in his Office.

If any Clerk of the Peace shall misde-

How Clerk of the Peace is removeable.

mean himself in his Office, the Justices of the Peace, in their General Quarter Sessions, or the major Part of them, upon Complaint in Writing exhibited against him, may, upon Examination, and due Proof thereof, suspend or discharge him: And in such Case, the Custos Rotulorum, or other Person to whom of Right it shall belong, shall appoint another Person residing within the same County, &c. to be Clerk of the Peace in his Room; and in Case of Neglect or Refusal, to make such Appointment before the next General Quarter Session, after such Refusal, the Justices of the Peace, at their General Quarter Sessions, may appoint one.

Provided always, That he shall be liable to all the Penalties, Conditions, &c. hereby mentioned and expressed, and may be discharged by the said Justices as aforesaid.

No Custos Rotulorum, or other Person to whom it doth or shall belong to nominate a Clerk of the Peace, shall sell the said Place, directly or indirectly, upon the Penalty that every Custos Rotulorum, or other Person so selling, and every Clerk of the Peace so buy-

ing, shall be disabled to hold their Places, and forfeit double the Value of what shall be so given or taken, to be recovered by him or them that will sue for the same, to their own Use, by any Action of Debt, Suit, Bill, Complaint or Information, in any of their Majesties Courts at Westminster.

Every Clerk of the Peace, before he enters upon his Office, shall, in open Sessions, take this Oath, viz.

I A. B. do Swear, that I have not, nor will pay any Sum or Sums of Money, or other Reward whatsoever, nor have given any Bond, or other Assurance to pay any Money, Fee, or Profit directly or indirectly to any Person or Persons whomsoever for such Nomination or Appointment.

So help you G O D.

Nothing in this Act relates to the Clerk of the Peace for the Duchy and County Palatine of Lancaster.

The Form of appointing a Clerk of the Peace by the Custos Rotulorum.

WHEREAS the Office of Clerk of the Peace for the *West-Riding* of the County of *York*, is now vacant by the death of *W. W. Esq;* late Clerk of the Peace of the said *Riding*; KNOW ALL MEN by these Presents, That the Right Honourable ——— Earl of *Burlington*, Custos Rotulorum of the said *Riding*, hath nominated, constituted, and appointed, and doth hereby nominate, constitute, and appoint *K. N. Esq;* a Person skilful in the Laws of *England*, and now inhabiting and residing within the same *Riding*, to be Clerk of the Peace of the said *Riding*; to have, hold, execute, and enjoy the Office of Clerk of the Peace of the *Riding*

Riding aforesaid, by himself, or his sufficient Deputy or Deputies, and by himself, or such Deputy or Deputies, to have, receive and take to the Use of him the said *K. N.* all Fees, Wages, Perquisites, Advantages, Emoluments, and Appurtenances whatsoever to the said Office belonging or in any wise appertaining, for and during so long Time as the said *K. N.* shall well behave and demean him in the said Office. In Testimony whereof, the said Earl hath hereunto set his Hand and Seal, the

Day of in the Year of
the Reign of our Sovereign Lord *George the Second*,
now King of *Great Britain, &c.* and in the Year
of our Lord 17

THE
D O C T R I N E
O F
I N D I C T M E N T S.

P A R T II.

AS an Introduction to the subsequent Parts of this Work, it may not be improper to say something concerning the Body of an Indictment, the several Parts thereof, and the Forms requisite therein.

An Indictment is a plain, brief and certain Narrative of an Offence, committed by any Person, and of those necessary Circumstances, that concur to ascertain the Fact and its Nature, according to the Old Rule.

Quis, quando, ubi, quid, cujus, quomodo, quare.

Quis, The Person, with his Name, Surname, addition of the Town, County, Art and Degree.

Quando, The Day and Year.

Ubi, The Place, Town, and County.

Quid, The Thing taken, the Colour, the Mark, the Price and Value.

Cujus,

Cujus, The Owner of the Thing, and whose it was.

Quomodo, The Manner of the doing, and how.

Quare, The Intent, which is comprised in the Word Felonice.

Formerly every Indictment was in *Latin*, and so were all Pleadings in the Courts of Law; but now by the Statute of 4 *George* 2. c. 26. & *Stat.* 6 *Geo.* 2. c. 6. all Indictments, &c. are to be in *English*; to the end, that they should be in a Language capable of being known and understood by the Parties concerned, whose Lives and Liberties may be affected thereby.

Figures to express Numbers are not allowable in an Indictment; but Numbers must be expressed in Words.

An Indictment, grounded upon an Offence made by Act of Parliament, must, *by express Words*, bring the Offence within the substantial Description thereof, and those Circumstances, mentioned in the Statute to make up the Offence, shall not be supplied by the general Conclusion, against the Form of the Statute.

And so it is, where an Act of Parliament ousts Clergy, in certain Cases, as Murder, of *Malice afore-thought*; Robbery, *in or near a Highway*; stabbing one, *not having struck first, nor having a Weapon drawn*; tho' the Offences themselves were at Common Law within Clergy, the Parties if convicted, shall not be ousted of Clergy, unless these Circumstances, as, *of Malice afore-thought, or near a Highway, &c.* be expressed in the Indictment.

If a Statute prohibit any Act to be done, and by a Clause gives a Recovery, by Action of Debt, Bill, Plaint or Information, but mentions not Indictment, the Party may be indicted upon the Prohibitory Clause, and thereupon fined; but not to recover the Penalty as upon the Statute of 3 *Jac.* 1.

88 *The DOCTRINE of INDICTMENTS.*

c. 5. prohibiting Recusants to baptize their Children by a Popish Priest; but then the Fine ought not to exceed the Penalty.

But if the Act be not Prohibitory, but only, that if any Person shall do such a Thing, he shall forfeit 5*l.* to be recovered by Action of Debt, Bill, Plaint, or Information, he cannot be indicted for it; but the Proceeding must be by Action, Bill, Plaint, or Information.

If a Man be indicted for an Offence, which was at Common Law, and concludes *against the Form of the Statute*, but in truth, if it is not brought by the Indictment within the Statute, it may be quashed, and the Party shall not be put to answer it as an Offence at Common Law.

As if a Man be indicted for Drawing his Dagger in the Church-Yard upon *A. B.* against the Form of the Statute, *viz. 5 E. 6. c. 4.* but omits these Words, *with an Intent to strike*, the Indictment shall be quash'd, and the Party not put to answer the Assault at Common Law upon the same Indictment.

So if Men be indicted for a riotous and forcible Entry, against the Form of the Statute, *viz. 8 H. 6. c. 9.* and the Statute is misrecited, they shall not be put to answer the Offence at Common Law; but that Indictment shall be quash'd.

If a Man be indicted *for that he stole, &c.* and says not *feloniously*, the Indictment imports but a Trespass, and the Offender may be put to answer it as a Trespass.

If an Act of Parliament making a Felony or other Offence be but temporary, and made perpetual by another Statute, the Indictment concluding *against the Form of the Statute* is good.

If there be several Offenders that commit the same Offence, tho' in Law they are several Offences, in relation to the *several Offenders*; yet they may
be

be joined in one Indictment, as if several commit Robbery, Burglary or Murder.

The requisite Parts in an Indictment are,

- I. *The Name and Addition of the Indicttee.*
- II. *The Day and Year of committing the Offence.*
- III. *The Parish, Precinct, Hamlet, or Place where committed.*
- IV. *Upon or against whom committed.*
- V. *The Manner of doing it.*
- VI. *The Fact itself, and the Nature of it.*
- VII. *The Conclusion.*

- I. *As to the Name and Addition of the Party indicted.*

This regularly ought to be inserted truly in every Indictment; but if the Party be indicted by a wrong Christian Name or Addition, and he plead to that Indictment, Not Guilty, or answer to that Indictment upon his Arraignment, by that Name, he shall not be allowed after to plead a *Misnomer*, or Falsity of his Addition; for he is concluded and estop'd by his Plea, by that Name.

But he that will take Advantage of the Misnomer of his Christian Name, Surname, or Addition, must do it upon his Arraignment.

The Misnaming of the Surname of the Offender in an Appeal, is a good Plea in Abatement; but tho' the Surname be mistaken in an Indictment, yet it shall not abate.

But the Mistake of the Christian Name is pleadable as well on an Indictment, as on an Appeal, and the Party shall be dismiss'd from the Indictment: But then the Party must plead his true Christian Name, by which he may be indicted *de novo*, and the Grand Jury may find another Bill.

By the Stat. 1 *H. 5. c. 5.* in all Indictments, &c. the Party indicted ought to have the Addition of his M. ftery, Degree, Place, and County.

If a Party be indicted without an Addition, or a false one, and upon that Indictment outlawed, he may avoid the Outlawry by Writ of Error.

But altho' there be no Addition, yet if he appear and plead *Not Guilty*, without taking the Advantage of that Defect, the Indictment is affirmed, and the Want of Addition falved.

Single Women is a good Addition; so is Widow; so is the Wife of *J. S. of*, &c.

An Indictment against a Peer of the Realm is good without an Addition; because no Process of Outlawry lies against him.

An Indictment against Inhabitants of a Parish for not repairing a Highway; is good without naming any Person in certain.

If several Persons be indicted for one Offence, Misnomer, or want of Addition of one, quasheth the Indictment only against him, but the Rest shall be put to answer, according to 2. *Hale's H. P. C.* 177 but 2. *Hawkins's P. C.* 231. *contra.*

II. *Touching the Time, to wit, the Year and Day wherein the Fact was committed.*

Tho' the Day be inserted, if the Year be omitted, the Indictment is insufficient.

If a Man be indicted, for that he on the first Day of *April*, in the sixth Year, &c. with Force and Arms, did make an Assault upon *K. D.* and him did beat, and says not *then and there did beat*, yet this hath been held good; for the *Force and Arms, Day and Place*, named in the Beginning, refer to all the ensuing Acts.

But in an Indictment of Felony, there must be *then and there*, to the Stroke, or to the Robbery,

and the Day and Place of the Assault is not sufficient; and this is in Favour of Life: Therefore it is usual to repeat the *then and there* to the several Parts of the Fact, as Robbery from the Person, &c.

If *K. D.* be indicted, for that he, on such a Day and Year, at such a Place, having in his Right Hand a certain Sword, &c. did strike *R.* and it is not said *then and there did strike*, this is ill; because the Day and Year, and Place relate only to the having the Sword, not to the Stroke.

In an Indictment for Murder, or Manslaughter, the Day and Place of giving the Stroke, or other Act inducing the Death, and also the Time of the Death must be exprest; the former, because the Forfeiture of Lands relates thereto; the latter, because it must appear, that the Death was within the Year and Day after the Stroke, &c.

Where the Time of the Day, or Night, is material to ascertain the Nature of the Offence, it must be exprest in the Indictment. As an Indictment for Burglary ought to say on such a Day, *about the Hour of* *in the Night of the same Day, feloniously and burglariously did break and enter.*

So upon Breaking a House in the Day-time, to oust the Offender of Clergy, upon the Stat. 39 *Eliz. c. 15.* the Indictment must exprest, *in the Day-time* (and it is usual to say about what Hour the Fact was committed) otherwise the Indictment will not oust the Party of Clergy, tho' it may be otherwise a good Indictment, as to convict him for a Felony within the Benefit of Clergy.

Where an Indictment charges a Man with a bare Omission, as the not scouring such a Ditch, &c. it is said that it needs not shew any Time.

A Conviction of Deer-stealing setting forth the Offence, between the *8th* and *12th* of *July*, &c. is sufficient,

A Mistake

92 *The DOCTRINE of INDICTMENTS.*

A Mistake in not laying an Offence on the very same Day on which it is afterwards proved upon the Trial, is not material upon Evidence.

III. *The Parish, Precinct, Hamlet, or Place where a Felony is committed must be expressed in the Indictment.*

Middlesex; in the Margin, the Indictment supposing a Fact done *at the Parish of St. Clement Danes in the County aforesaid*, is good, for it refers to the County in the Margin.

But if there be two Counties named, one in the Margin, and another in the Addition of any Party, or in the Recital of an Act of Parliament, the Fact laid at *S.* in the County aforesaid, vitiates the Indictment, because two Counties are named before, and therefore it is uncertain to which it refers.

A Mistake of the Place in which an Offence is laid, will not be material upon Evidence on not guilty pleaded, if the Fact be proved at some other Place in the same County.

IV. *As to the Name of the Person upon whom an Offence is committed.*

An Indictment of Murder *of a certain Person to the Jurors unknown*, is good, and so for stealing Goods, &c. *of a certain Person unknown*.

If *K* dies, and *L* opens the Grave where *K* is buried, and steals the Shroud, the Indictment cannot suppose the Goods to be of the dead Man, but of the Executors, Administrators, or Ordinary, as the Case happens.

If *K* deliver Goods to *L*, a common Carrier, to carry for him, and *L* is robb'd, the Indictment may suppose them to be the Goods of *K*, or the Goods of *L*, as the Prosecutor pleases; for *L* hath
a Kind

a Kind of special Property, because chargeable for them.

There's no Need of an Addition of the Person Robb'd or Murder'd, &c.

V. *As to the Thing wherein, or of which, the Offence is committed, Certainty is requisite in an Indictment.*

An Indictment against a Man for that he is a common Thief, or common Champartor, Conspirator, common Malefactor, or common Robber, &c. cannot be good, because every Indictment ought to contain the particular Matter wherein the Offence was committed.

But *common Barretor, and Disturber of the Peace of our Lord the King, and a Sower of Strife, &c.* is good, because Barretry is an Offence known in Law, and consists of diverse Particulars; and the Rest that is added thereunto are but Aggravations of the Offence, for Barretry itself is a Crime.

Also an Indictment against one for being a common Scold is good without setting forth the Particulars.

An Indictment against a Man for that he feloniously took and carried away Goods and Chattels of another, without mentioning the Particulars, *viz. one Horse, one Ox, &c.* will not be good.

The Number of Things stolen must be exprest in the Indictment; for it is not sufficient to say, *feloniously did steal Sheep*, without expressing the Number

The Value of any Thing stolen must be set down in the Indictment, to the End that it may appear, whether the Offence be Grand or Petty Larceny.

The same or rather greater, Certainty is required in an Indictment for Goods; for what will be a Defect

94 *The DOCTRINE of INDICTMENTS.*

Defect of Certainty in a Count, will be much more defective in an Indictment.

VI. *The Fact, and Nature of the Fact, must be certainly set down in an Indictment.*

An Indictment against *A* for that he *feloniously did lead away a Horse*, without saying *take*, is not good.

An Indictment of Rape, for that the Defendant *feloniously and carnally did know*, without the Word *ravish*, will not be good, tho' it should conclude, against the Form of the Statute.

If *A* be indicted that he did *feloniously, &c. shoot off a Gun, &c. against B, giving to him a mortal Wound*, without saying *did strike*, the Indictment is not sufficient.

In Cases of Burglary, the Indictment must say, *break and enter*.

VII. *The Conclusion.* An Indictment of Felony must always alledge the Fact to be done *feloniously*. An Indictment of Burglary must lay the Offence to be done *feloniously and burglariously did break and enter*. High Treason must be laid to be done *traiterously*. Petit Treason, *feloniously and traiterously*; for tho' a Party be acquitted of Petit Treason, he may be convicted of Murder or Manslaughter.

If a Man be indicted that *he did steal a Horse*, for want of the Word *feloniously*, it is but a Trespas.

An Indictment of Murder or Manslaughter hath these Certainties and Requisites to be added to it, more than any other Indictments; for it must not be only *feloniously*, and ascertain the Time of the Act done, but must also, *1st*, declare how, and
with

with what it was done, *viz. with a certain Sword, &c.*

Yet if the Party were killed with another Weapon, it maintains the Indictment; but if it were with another Kind of Death, as Poisoning or strangling, it doth not maintain the Indictment upon Evidence.

If *A* be indicted for Poisoning *B*, the Sort of Poison must be alledged; but if *B* be poisoned with another Sort of Poison, yet it maintains the Indictment; for the Kind of Death is the same.

2. If a Man be indicted for the Murder of another, with a Sword, Pistol, &c. the Indictment must set forth, *in which Hand the Defendant held the Weapon*, tho' mistaking the Hand will not vitiate.

For Example; if an Indictment runs thus, *that with a certain Sword which he held in his Right did strike*, without saying *in his Right Hand*, for this Cause an Indictment has been quash'd.

3. The Weapon is a Deodand, forfeit to the King; therefore the Value should be set down in the Indictment.

4. The Indictment must shew in what Part of the Body the Wound was given.

5. The Length and Depth of the Wound should be set forth.

But tho' the Manner and Place of the Hurt, and its Nature be requisite, as to the Formality of the Indictment, and it is fit to be done as near the Truth, as may be, yet, if upon Evidence, it appear to be another Kind of Wound, in another Place, if the Party died of it, it is sufficient to maintain the Indictment.

6. It

96 *The DOCTRINE of INDICTMENTS.*

6. It is usual to alledge, *the Party stricken to have been in the Peace of God, and our Lord the King:* But it does not seem absolutely necessary to be inserted.

7. It is necessary to alledge, in Fact, that the Party wounded, died of that Wound, and also the Time and Place, as well of the Death, as of the Wound given, that it may appear, that the Party died within the Year and Day of the Wound; as thus, *of which said mortal Wound, he the said A. B. then and there instantly died; or, of which said mortal Wound, he the said A. B. from such a Day (the Day of giving the Wound) until such a Day, did languish, and languishing did live, on which Day, he the said A. B. of the said mortal Wound, died.*

In an Indictment for Murder, the Stroke is alledg'd to be *mortal Bruise, or Wound, and given feloniously*; yet in Case of Murder, there is somewhat more to be said, or otherwise it will amount to no more than Manlaughter, and the Offender will have his Clergy; for the special Words in an Indictment of Murder, are, 1st, *of Malice aforethought*; 2^d, *did Murder*; and tho' the Words *did Murder* be in an Indictment, yet for Want of the Words of *Malice aforethought*, the Offender will have his Clergy.

An Indictment of Treason for counterfeiting the King's Coin, ought to shew particularly what *Kind of Coin*, to wit, Shillings, &c.

An Indictment of High Treason, for conspiring the Death of a King, ought not only to contain the compassing and conspiring to do the Act, but must also set down an Overt-act in Pursuance thereof.

As in all Indictments of Felony, there must be *feloniously*, and of Treason there must be *traiterously*, so it must be said to be done *with Force and Arms.*

The

The Conclusion of an Indictment for Murder, where the Stroke is supposed to be done at one Day or Place, and the Death at another Day or Place, ought not to be *and so feloniously, wilfully, and of Malice aforethought, the aforesaid A. B. the said B. C. (the Day and Place, when and where the Stroke was given) did kill and Murder*; this will not be good, because the Stroke is the Offence and Cause of the Death, yet it is neither Murder nor Manslaughter, 'till the Party die.

Regularly every Indictment ought to conclude, *against the Peace of our Lord the King, his Crown and Dignity*; therefore an Indictment without concluding *against the Peace, &c.* is insufficient.

If an Offence be supposed to be begun in the Time of one King, and continued in the Time of his Successor (as a Nufance) it must conclude, *against the Peace of both Kings.*

If an Offence be newly enacted, or made an Offence of a higher Nature by Act of Parliament, the Indictment must conclude *against the Form of the Statute.*

If an Offence was High Treason, &c. at Common Law, and an Act of Parliament afterwards declares it so, as the Stat. 25 E. 3. Stat. 5. c. 2. of Treasons the Stat. 3 H. 5. c. 7. of Clipping the Coin, &c. 'till repealed by 1 Mar. Stat. 1. the Indictment is good with or without concluding, *against the Form of the Statute.*

An Indictment for clipping, washing, &c. of Coin, enacted to be Treason by the Statutes 5 Eliz. c. 11. & 18 Eliz. c. 1. must not only express, as the Statute requires (*for wicked Lucre and Gain Sake*) but must conclude, *against the Form of the Statute.*

If an Offence was Felony at Common Law, but a special Act of Parliament ousts the Offender, of the Benefit of Clergy (that the Common Law al-

H

lowed

lowed him) when certain Circumstances are in the Fact, tho' the Body of such Indictment must express those Circumstances, according as they are describ'd in the Statute, yet the Indictment must not conclude, *against the Form of the Statute.*

Thus on the Stat. 21 *Jac. c. 27.* concerning murdering of Bastard Children, the Indictment must shew, that it was a Bastard Child, to bring the Offender within the Statute, but concludes not *against the Form of the Statute*; but in such like Cases, it would not vitiate an Indictment to conclude, *against the Form of the Statute*; but would be only Surplusage.

If an Offence be at Common Law, and also prohibited by Statute, with a corporal or other Penalty, yet it seems the Party may be Indicted at Common Law, and then, tho' it conclude not *against the Form of the Statute*, it stands as an Indictment at Common Law, and can receive only the Penalty that the Common Law inflicts in that Case; so if Perjury be committed, that is, within the Stat. 5 *Eliz. c. 9.* but concludes not *against the Form of the Statute*, yet it is a good Indictment at Common Law, but not to bring him within the corporal Punishment of the Statute.

If a Statute only make an Offence, or alter an Offence from one Crime to another, as stealing Lead fixed to a Dwelling-house, &c. from a Misdemeanor to Felony, by Stat. 4 *G. 2. c. 32.* the Indictment for such new made Offence, or new made Felony, must conclude *against the Form of the Statute*, otherwise it is insufficient.

And if an Offence be purely at Common Law, if the Indictment conclude *against the Form of the Statute*, it may be quash'd.

Some additional Observations.

1. No circumlocution will supply the Terms of Art, appropriated by the Law for the Description of the Offence, as *Murdred*, in an Indictment of Murder; *Took*, in an Indictment of Larceny; *Maybemed*, in an Indictment of Maim; *Traiterously*, in an Indictment of Treason; and *against the Duty of his Allegiance*, in an Indictment of Treason against the King's Person.

2. An Indictment charging a Man disjunctively is void, as that *A. Murdered B. or caused to be Murdered*; or that *A. Forged such a Deed, or caused to be Forged*.

3. An Indictment must be positive and not by way of recital, or with a *That whereas*, &c.

4. When one material Part of an Indictment is Repugnant to another, the whole is void; as in an Indictment, against *A.* for Forging a Writing, whereby *B.* is bound to *C.* which is impossible if the Writing be Forged; or in an Indictment for Disseising *A.* of Lands, when it appears by the Indictment, that *A.* had no Freehold, whereof he could be Disseised.

For these Observations we refer the Practicer to the following Precedents, which we hope he'll find drawn up so suitable to every Purpose they touch upon, as to give him Ease and Satisfaction in his Practice of pursuing them.

P R E C E D E N T S
O F
I N D I C T M E N T S
F O R

Felonies, Trespaffes *and* Misdemeanors.

An Indictment for a Misdemeanor, in receiving Stolen Goods, as Accessary the principal Felon being unknown.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *John Doe*, late of the Parish of *Saint Leonard, Shoreditch*, in the County of *Middlesex*, Labourer, and *Mary* his Wife, being Persons of evil Name and Fame, and of dishonest Conversation, and common Buyers and Receivers of stolen Goods, on the fifth Day of *June*, in the tenth Year of the Reign of our Sovereign Lord, *George the Second*, King of *Great Britain, &c.* with Force of Arms, at the Parish aforesaid, in the County aforesaid, one silver Tankard, of the Value of six Pounds of the Goods and Chattels of one *S. M.* by a certain ill-disposed Person (to the Jurors aforesaid yet unknown) then lately before feloniously stolen of the same ill-disposed Person, unlawfully, unjustly, and for the
fake

fake of wicked Gain did receive, and have (they the said J. D. and Mary his Wife, then and there well knowing, and each of them well knowing the said Goods and Chattels to have been feloniously stolen) to the great Damage of the said S. M. against the Form of the Statute in that Case made and provided; and against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 1. Ann. Stat. 2. c. 9. Whosoever shall buy or receive stolen Goods, knowing them to be stolen, may be prosecuted for a Misdemeanor, and punished by Fine and Imprisonment, tho' the principal Felon be not Convicted.

This Statute exempts them from being punished as Accessaries, if the Principal shall afterwards be Convicted.

Against an Accessary to a Felony or Burglary before the Fact.

After you have drawn the Indictment against the Principal Felon, begin the Charge against the Accessary, on the same Piece of Parchment, as follows;

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That G. H. late of the Parish of St. Mary Matfellow, otherwise Whitechappel, in the County of Middlesex aforesaid, Labourer, before the said Felony and * Burglary was committed in Form aforesaid, to wit, on the said ninth Day of December, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, did feloniously and maliciously † incite, move, procure, aid and abet the said A. B.

* *If for Felony only, leave out the Word Burglary.*

† *Instead of the Words incite, move, procure, aid. and abet, you may say, counsel, hire, or command. Vide. Stat. 3 & 4 W. & M. c. 9.*

to do and commit the said Felony and Burglary in Manner and Form aforesaid, against the Peace of our said Lord the King his Crown and Dignity.

Against an Accessary in receiving the principal Felon.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That *J. K.* late of the Parish of *St. Mary Matfellow*, otherwise *Whitechappel* in the said County of *Middlesex*, Labourer, well knowing the said *A. B.* to have done and committed the said Felony and Burglary in Form aforesaid, afterwards, to wit, on the said ninth Day of *December*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid in the County aforesaid, him the said *A. B.* did then and there * feloniously receive, harbour and maintain, against the Peace of our said Lord the King his Crown and Dignity.

Against an Accessary in receiving Stolen Goods.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That *L. M.* late of the said Parish of *St. Mary Matfellow*, otherwise *Whitechappel*, in the said County of *Middlesex*, Labourer, afterwards, to wit, on the tenth Day of *December*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, six Brass Candlesticks and four Pewter Dishes †, being Parcel of the Goods and Chattels so as aforesaid, feloniously and burglariously stolen, taken,

* See Stat. 5 Ann. c. 31. but this was always Felony at Common Law.

† If he received all the Goods, then say the Goods and Chattels abovementioned, so as, &c.

and

and carried away, feloniously did receive and have (he the said *L. M.* then and there well knowing the said Goods and Chattels last mentioned, to have been feloniously and burglariously stolen, taken, and carried away) against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King his Crown and Dignity.

Against an Accessary in receiving Goods knowing them to be stolen, Principal convicted in Surry, Accessary indicted in Middlesex, after the Principal convicted.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That at the Delivery of the Gaol of our Lord the King of his County of *Surry*, holden at *Kingston upon Thames*, in and for the County aforesaid, on *Thursday* the twenty-fifth Day of *March*, in the seventh Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. before Sir *E. P. Knt.* one of the Justices of our said Lord the King, assigned to hold Pleas before the King himself, and *R. M. Esq;* then Justices of our said Lord the King, assigned to deliver the said Gaol of the Prisoners therein being; *M. T.* late of the Parish of *Lambeth*, in the said County of *Surry*, Labourer, was convicted in due Form of Law, for that the said *M. T.* on the twenty-fourth Day of *December*, in the said seventh Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, seventeen Yards of Linnen Cloth, of the Value of thirty Shillings, of the Goods and Chattels of one *T. W.* then and there being found, feloniously

Recite in the Indictment on which the Principal was convicted.

104 **Precedents of Indictments, &c.**

did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity, as by the Record thereof remaining filed in the said Court of Gaol Delivery, may more fully and at large appear. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That *J. C.* late of the Parish of *St Martin*, in the *Fields*, in the County of *Middlesex*, Labourer, afterwards, to wit, on the said twenty-fourth Day of *December*, in the Year aforesaid, with Force and Arms, at the said Parish of *St. Martin* in the *Fields*, in the County of *Middlesex* aforesaid, the Goods and Chattles aforesaid, so as aforesaid feloniously stolen, taken, and carried away, feloniously did receive, and had (he the said *J. C.* then and there well knowing the aforesaid Goods and Chattels to have been feloniously stolen, taken, and carried away) against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

See the Stat. 2. & 3. Ed. 6. c. 24. § 4.

In High-Treason there are no Accessories; for the Advisers, Councillors, Persuaders, and Assistants, as also the Receivers knowing thereof, are all Principals, and the Act which makes a Man Accessary in Felony, the same makes him a Principal in High Treason.

There are two Sorts of Accessories in Felony, the one before the Felony committed, the other after.

By the Stat. 4 & 5 Ph. & M. c. 4. every Person that shall maliciously command, hire or counsel any Person or Persons, to commit or do any petit Treason, wilful Murder, or to do any Robbery in any Dwelling-House or Houses, or to commit or do any Robbery, in or near any Highway, in this Realm of England, or wilfully to burn any Dwelling-House, or any Part thereof, or
any

Stamf. 40.

Pro. Treas. 19.

Accessaries be-
fore the Fact.

any Barn then having Corn or Grain in the same, shall not have Clergy.

Stat. 8 Eliz. c. 4. for privately stealing from the Person extends not to any Accessories before or after.

Privately stealing from the Person.

By Stat. 31 Eliz. c. 12. § 5. 'tis enacted, That not only all Accessories before to Horse-stealing, but also all

Horse-stealers.

Accessories after such Felony, shall be deprived and put from all Benefit of their Clergy, as the Principal is or ought to be by the Stat 1 Ed. 6. c. 12. 2 & 3 Ed. 6. c. 33.

By Stat. 10 & 11 W. 3. c. 23. All Persons that shall assist, hire, or command any Persons, privately and feloniously to steal any Goods, Wares, or Merchandises, in any Shop, Warehouse, Coach-house, or Stable, of the Value of five Shillings, shall be excluded from the Benefit of Clergy.

Privately stealing Goods out of a Warehouse, &c.

Whoever shall comfort, aid, abet, assist, counsel, hire, or command any Person or Persons, to break any Dwelling-house, Shop, or Ware-house, thereunto belonging, or therewith used in the Day-time, and feloniously take away any Money, Goods, or Chattels, of the Value of five Shillings or upwards, therein being, altho' no Person shall be

Breaking Dwelling-Houses, &c. in the Day-Time.

See the Stat.

39 Eliz. c. 15. against the Principal.

within such Dwelling-house, Shop, or Ware-house, being convicted or attainted, or being indicted or standing mute, or challenging peremptorily above twenty, shall be excluded from their Clergy, by the express Words, 3 & 4 W. & M. c. 9.

And by the same Stat. 3 & 4 W. & M. c. 9. All and every Person or Persons, that shall comfort, aid, abet, assist, counsel, hire, or command any Person to

Robbery.

W^h Indictm^t. ag^t. an accessory on this Statute rob
and the words "excited mood & provoked" totally
dropping the words of the Statute & yet held good, i. And: 195.

106 **Precedents of Indictments, &c.**

rob another, shall likewise be excluded from the Benefit of their Clergy.

Also by the same Stat. 3 & 4 W. & M. c. 9.
 Every Person who shall counsel, hire, or command any Person to commit any Burglary, being thereof convicted or attained, or being indicted and standing mute, or challenging peremptorily above twenty, shall not have his Clergy.

Arson.
** Vide supra.* As to Arson, all Accessories to the Fact before, maliciously, are excluded in all Cases, by * 3 & 4 Ph. & M. c. 4.

Those who are present abetting and encouraging the doing any Murder or Rape, are Principals in the highest Degree, in Respect of such Abetment, as much as the Person who does the Fact.

Where a Woman is taken away against her Will, within the Meaning of the Stat. 3 H. 7. c. 2. tho' the Receivers of the Woman are Principals; yet the Receivers of those who took the Woman are but Accessories, and those Accessories shall have the Benefit of Clergy, because it is after the Fact; for the Stat. 33 Eliz. c. 9 takes away the Benefit of Clergy from Principals, Aiders, and Abettors before the Fact only.

Forgery.
 Moor. 666. There are no Accessories in Forgery which is made Felony, but all are Principals.

Bro. Cor. 304. A Man may be an Accessary to an Accessary, if he receive him, &c. knowing thereof.

None can be accessary in petty Larceny.

By the Stat. 3 & 4 W. & M. c. 9. Buyers and Receivers of stolen Goods, knowing them to be stolen, are to be deemed Accessories after the Fact, and suffer as such.

But

A L E H O U S E.

107

But because Receivers often concealed principal Felons, and thereby escaped being punished as Accessaries,

By the Stat. 1 Ann. Stat. 2. c. 9. Whosoever shall buy or receive stolen Goods, knowing them to be stolen, may be prosecuted for a Misdemeanor, and punished by Fine and Imprisonment; tho' the principal Felon be not convicted.

And this will exempt them from being punish'd as Accessaries, if the Principal shall afterwards be convicted.

But by the Stat. 5 Ann. c. 31. If any Person shall receive or buy, knowingly, any stolen Goods, or knowingly harbour or conceal any Felon, he shall be taken as Accessary to the Felon, and shall suffer as a Felon; but this Statute does not take away Clergy: But by the Stat. 4 Geo. c. 11. Receivers to be transported for fourteen Years.

A L E H O U S E.

For keeping an Ale-house without a Licence.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. F.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Victualler, on the seventeenth Day of *January*, in the ninth Year of the Reign of our Sovereign Lord *George the Second*, now King of *Great Britain*, &c. and diverse other Days and Times, as well before as afterwards, at the Parish aforesaid, in the County aforesaid, without any lawful Authority, Licence, Admission or Allowance of two Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, did take upon himself to keep, and then and there did keep, a common Ale-house, and in the same House, then and there,

Licences to
be granted in
Session, or by
two Justices,
(*Quorum u-*
com-

108 **Precedents of Indictments, &c.**

nus) Stat. 5. commonly and publickly, did sell and
Ed. 6. c. 25. utter, and did cause to be sold and ut-
 tered, Ale and Beer, to diverse liege
Note, These Subjects of our said Lord the King, in
Indictments Contempt of our said Lord the King,
 are often pre- and his Laws, against the Form of the
 ferr'd at Affi- Statute in such Case made and provid-
 zes, and not ed, and against the Peace of our said
 quash'd. Lord the King, his Crown and Dignity.

*Note, There are some Books which tell us, that an
 Indictment will not lye for keeping an Ale-house
 without Licence, because the Statutes direct, how
 the Offenders are to be punish'd, viz. committing
 them, &c. 4 Mod, 144 Trin. Term. 4 W. M.
 K. B. The King against Marriot. Shower's
 Reports, p. 398. Hill, 8 W. 3. But the above
 Precedent is given, in Case this Doctrine should be
 over-ruled.*

*Statutes relating to Ale-houses, are, 5 E. 6. c. 25.
 1 Jac. 1. c. 9. 4 Jac. 1. c. 4. c. 5. 7 Jac. 1.
 c. 10. 21 Jac. 1. c. 7. 1 Car. 1. c. 4. 3 Car.
 1. c. 4. 12 Geo. 1. c. 12. 2 Geo. 2. c. 28.
 9 Geo. 2. c. 23. 35. 25 Geo. 2. c. 36. 26 Geo.
 2. c. 13. 31. 28 Geo. 2. c. 19. 29 Geo. 2. c. 12.
 30 Geo. 2. c. 24.*

Arson ; or wilfully burning a House.

Middlesex. **T**HE Jurors for our Lord the King
 upon their Oath present, That
W. G. late of the Parish of *Fryan Barnet*, in the
 County of *Middlesex*, Labourer, not having the
 Fear of God before his Eyes, but being moved and
 seduced by the Instigation of the Devil, after the
 first Day of *June*, in the Year of our Lord, One
 thousand seven hundred and twenty-three, to wit,
 on

on the second Day of *June*, in the sixth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. about the Hour of Two in the Night of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, a certain House * of one *G. S.* there situate, feloniously, voluntarily, and maliciously did set fire to, and the same House, then and there by such Firing as aforesaid, feloniously, voluntarily, and maliciously did burn and consume, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Arson, is a malicious and voluntarily burning the House of another by Night or by Day. 3. Inst. 66. Felony at Common Law of the highest Nature. And by Briton, Offenders were burnt to Death.

To set fire to any House, Barn, or Out-house, Hovel, Cock, Mow, or Stack of Corn, Straw, Hay, or Wood, was made Felony without Benefit of Clergy, by the Stat. 9 Geo. 1. c. 22. continued by 12 Geo. 1. c. 30. 6 Geo. 2. c. 37. and farther continued by 10 Geo. 2. 'till September 1, 1744. and further continued by Stat. 17 Geo. 2. c. 40. to 24 June, 1751. and from thence to the End of the next Session of Parliament. Stat. 9 Geo. 1. c. 22. and 10 Geo. 2. c. 32. made perpetual by Stat. 31 Geo. 2. c. 42. Firing Collieries Felony without Clergy, 10 Geo. 2. c. 32.

A S S A U L T.

For a common Assault.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Andrew, Holbourn*, in the

* *Sufficient without saying Dwelling-House, Co. P. C. p. 67.*
County

110 *Precedents of Indictments, &c.*

County of *Middlesex*, Yeoman, on the first Day of *June*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon one *J. H.* in the Peace of God, and our said Lord the King, then and there being, did make an Assault; and him the said *J. H.* then and there did beat, wound, and ill-treat, so that his Life was greatly despaired of, and other Wrongs to the said *J. H.* then and there did, to the great Damage of the said *J. H.* and against the Peace of our said Lord the King, his Crown and Dignity.

For Assaulting a Constable in the Execution of his Office.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Dunstan* in the *West*, in the County of *Middlesex*, Yeoman, on the first Day of *May*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon one *J. W.* (then being one of the Constables of the said Parish of *St. Dunstan* in the *West*, in the said County of *Middlesex*) in the Peace of God, and our said Lord the King, and in the due Execution of his said Office, then and there being, did make an Assault, and him, the said *J. W.* then and there did beat, wound, and ill treat, so that of his Life it was greatly despair'd, and other Wrongs to the said *J. W.* then and there did to the great Damage of him, the said *J. W.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid upon

In this, and all Cases of the like Nature, 'tis necessary to add this Count.

on their Oath aforesaid do further present, That the said *A. B.* on the said first Day of *May*, in the Year aforesaid, with Force and Arms, at the Parish of *St. Dunstan* in the *West*, aforesaid, in the County aforesaid, in and upon the said *J. W.* in the Peace of God and our said Lord the King, then and there being, did make an Assault, and him the said *J. W.* then and there did beat, wound, and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said *J. W.* then and there did to the great Damage of him the said *J. W.* and against the Peace of our said Lord the King, his Crown and Dignity.

That if it should not be proved that the Prosecutor was in the due Execution of his Office, the Defendant may be convicted for a Common Assault, for the Jury may find only as to the latter Count, if the former Count is not fully proved; but when 'tis fully proved, the Jury finds the Defendant guilty in General.

For an Assault and false Imprisonment.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *L.* in the County of *M.* Yeoman, on the — Day of — in the — Year of the Reign of our Sovereign Lord *George* the Second, King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *M. D.* in the Peace of God, and our said Lord the King, then and there being, did make an Assault; and him the said *M. D.* then and there did beat, wound and ill-treat, so that of his Life it was greatly despaired, and him the said *M. D.* then and there with Force and Arms falsely, unlawfully, and injuriously, and against the Will of the said *M. D.* and against the Laws of this Realm, without any legal Warrant, Authority, or justifiable Cause, did imprison and

112 **Precedents of Indictments, &c.**

detain for the Space of ——— Hours, and the said *A. B.* other Wrongs to the said *M. D.* then and there did, to the great Damage of the said *M. D.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors, &c. *Go on with another Count for a common Assault, as before.*

For the like, and obtaining a Note for discharging.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That (*As in the former 'till you come to the Words Imprison*) and detain for the Space of ——— Hours, and until he the said *M. D.* for his Delivery from the said Imprisonment, had signed and given to the said *A. B.* a Note under the Hand of the said *M. D.* whereby he the said *M. D.* promised to pay to the said *A. B.* the Sum of Three Pounds; and the said *A. B.* other Wrongs, &c. *Conclude, as in the former, with another Count for a common Assault.*

For an Assault with an Intent to Ravish.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of ——— in the County of ——— on the ——— Day of ——— in the ——— Year, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *A. W.* Spinster, in the Peace of God, and our said Lord the King, then and there being, did make an Assault, and her the said *A. W.* then and there did beat, wound, and ill-treat, so that of her Life it was greatly despaired, with an Intent her the said *Ann*, *against her Will*, then and there feloniously

These Words (*a-against her Will*) left out if under ten Years

feloniously to Ravish and Carnally know, and other Wrongs to the said *Ann*, then and there did to the great Damage of the said *Ann*, and against the Peace of our said Lord the King, his Crown and Dignity. *Another Count for a common Assault, as before.*

of Age, because then she cannot consent.

(Unlawfully and feloniously, carnally to know and abuse) if under the Age of Ten.

Necessary if the Intent is not plain.

Against two Persons for assaulting a Woman, with an Intent that one of them should Ravish her.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. H.* late of *Ec.* And *A. R.* late of *Ec.* (Day and Year) with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *E.* the Wife of *H. S.* in the Peace of God, and our said Lord the King, then and there being, did make an Assault, and her the said *E.* then and there did beat, wound, and ill-treat, so that her Life was greatly despaired of, with Intent that he the said *J. H.* should then and there feloniously, and against the Will of the said *E.* ravish and carnally know her the said *E.* and they the said *J. H.* and *A. R.* other Wrongs to the said *E.* then and there did, to the great Damage of the said *E.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. H.* and *A. R.* on the said ——— Day of ——— in the Year aforesaid, with Force and Arms, *Ec. for a common Assault.*

For assaulting a Woman with quick Child, so that the Child was brought forth Dead.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. H.* late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Yeoman, on the fourth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *M. E.* the Wife of *W. E.* in the Peace of God, and our said Lord the King, and also then and there, being big with a quick Child, did make an Assault, and her the said *M.* then and there did beat, wound, and ill-treat, so that her Life was greatly despaired of, by Reason whereof she the said *M.* afterward, to wit, on the twenty-ninth Day of the same Month of *April*, in the Year aforesaid, at the Parish of *St. Sepulchre* aforesaid, in the County aforesaid, did bring forth the said Child dead; and the said *J. H.* other Wrongs to the said *M.* did to the great Damage of the said *W. E.* and *M.* his Wife, and against the Peace, &c. and the Jurors, &c. (*Another Count for a common Assault, as before.*)

For assaulting one of the Collectors of Islington Turnpike, in the Execution of his Office.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *G. S.* late of the Parish of *L.* in the County of *M.* Yeoman, on the eleventh Day of *December*, in the first Year of the Reign of our Sovereign Lord, *George* the Third, King of *Great Britain*, &c. with
4
Force

Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *J. D.* (then and there, being one of the Collectors and Receivers of the Monies payable, by Virtue of a certain Act of Parliament, made in the third Year of the Reign of King George the First, intituled * *An Act for repairing the Highways, from several Places therein mentioned, leading towards Highgate Gatehouse, and Hamstead, in the County of Middlesex, and for electing Trustees for keeping up a sufficient Number for the repairing the Highways upon the Roads from Highgate Gatehouse to Barnet Blockhouse; and also of the Highways between Kilburn Bridge and Sparrows-Hern in the County of Hertford*) and in the Peace of God and our said now Lord the King, and in the Execution of his said Office, then and there being, did make an Assault, and him, the said *J. D.* then and there did beat, wound and ill-treat, so that of his Life, it was greatly despaired, and other Wrongs to the said *J. D.* then and there did, to the great Damage of the said *J. D.* and against the Peace of our said now Lord the King, his Crown and Dignity. *Here lay another Count for a common Assault.*

By Stat. 8.
Geo. 2. c. 20.
§. 11. 5 l.
Penalty for assaulting or threatening Collectors of Tolls, or forcibly passing thro' Turnpikes, &c. recoverable before two Justices of Peace, in a summary Way. *Vide Act.*

For an Assault on a Boy, with an Intent to commit Sodomy.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *A. B.* late of the Parish of *St. George*, in the County

* Great Care must be taken of the true recital of the Title of the Statute.

116 *Precedents of Indictments, &c.*

of *Middlesex*, Yeoman, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the nineteenth Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *J. H.* an Infant, of the Age of ten Years, in the Peace of God, and our said Lord the King, then and there being, did make an Assault, and him the said *J. H.* then and there did beat, wound and ill-treat, so that his Life was greatly despaired of, with an Intent that most horrid, detestable and sodomitical Crime (among Christians not to be named) called *Buggery*, with the said *J. H.* against the Order of Nature, then and there feloniously, wickedly and devilishly to commit and do, to the great Displeasure of Almighty God, to the great Damage of the said *J. H.* and against the Peace of our said Lord the King, his Crown and Dignity : And the Jurors, &c. *Conclude with a Count for a common Assault.*

For an Assault, with a drawn Sword, with an Intent to murder.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *A. B.* late of, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, with a certain drawn Sword, which he the said *A. B.* in his Right Hand then and there had and held, in and upon one *S. W.* in the Peace of God and our said Lord the King, then and there being, did make an Assault, with an Intent him the said *S.* then and there, feloniously, wilfully, and of his Malice aforethought, to kill and murder, and other Wrongs

Wrongs to the said S. then and there did, to the great Damage of the said S. and against the Peace of our said Lord the King, his Crown and Dignity.
Lay another Count for a common Assault.

For assaulting the Driver of a Chaise, and with the Off-Wheel of a Cart, overturning the Chaise.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That J. P. late of the Parish of St. James, Clerkenwell, in the County of *Middlesex*, Yeoman, on the seventh Day of *June*, in the first Year of the Reign of our Sovereign Lord, *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one R. C. in the Peace of God and our said Lord the King, and in a certain Chaise drawn by one Horse, in the King's Highway, then and there being, did make an Assault, and that the said J. P. then and there driving one Horse drawing a Cart, did then and there, in the Highway aforesaid, unlawfully and maliciously drive the said Horse, so as aforesaid drawing the said Cart, to and against the said Chaise, and by such driving did then and there, in the Highway aforesaid, unlawfully and maliciously force the said Cart against the said Chaise; and he the said J. P. with the Off-wheel of the said Cart, did then and there, in the Highway aforesaid, unlawfully and maliciously overturn the said Chaise, in which the said R. C. then and there was, as aforesaid; by Reason of which Overturning of the Chaise aforesaid, he the said R. C. then and there was grievously hurt and bruised, and the said J. P. other Wrongs to the said R. C. then and there did, to the great Damage of the said R. C. and against the Peace, &c.

For an Assault and driving a Cart against a Chariot, and breaking the Back of one of the the Horses, drawing the Chariot.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *E. P.* late of the Parish of *St. Giles, Cripplegate*, in the County of *Middlesex*, Yeoman, on the thirteenth Day of *June*, in the first Year of the Reign of our Sovereign Lord, *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *E. L.* in the Peace of God, and our said Lord the King, in a certain Chariot, drawn by two Horses in the King's Highway, then and there being, did make an Assault, and the said *E. P.* then and there driving two Horses drawing a Cart, did then and there, in the King's Highway aforesaid unlawfully, violently, and maliciously drive the said Horses so as aforesaid, drawing the said Cart, to and against the said Chariot, and by such violent driving, did then and there in the Highway aforesaid, unlawfully, and maliciously force the said Cart against the said Chariot, and he the said *E. P.* with the near Wheel of the said Cart, did then and there in the Highway aforesaid, unlawfully, and maliciously break the Back of one of the said Horses, drawing the said Chariot as aforesaid, and by the violent Force that the said Cart then and there come to and against the said Chariot as aforesaid, he the said *E. P.* did then and there endeavour to overturn the said Chariot, in which the said *E. L.* then and there was as aforesaid, by reason whereof the said *E. L.* then and there was grievously hurt and bruised, and the said *E. P.* other wrongs to the said *E. L.* then and there did, to the great Damage of the said *E. L.* and against the Peace of our said Lord the King, his Crown and Dignity.

For

For an Assault and Beating out an Eye.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. B.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Widow, being a Person of a wicked and diabolical Disposition, and maliciously designing and intending one *M.* the Wife of *J. W.* to beat, wound, and ill-treat, on the second Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon the said *M. W.* in the Peace of God and our said Lord the King, then and there being, violently did make an Assault, and her the said *M. W.* then and there did beat, wound and ill treat, so that her Life was greatly despaired of; and that she the said *J. B.* with her right Hand, the said *M. W.* in and upon the left Eye of her the said *M. W.* then and there unlawfully, violently and maliciously did strike, by Reason whereof she the said *M. W.* then and there the Use, Sight and Benefit of her said left Eye intirely lost, and was deprived of, and under the Pain and Anguish of the Blow, which she the said *M. W.* then and there received from the said *J. B.* for a long Time, to wit, from the said second Day of *January*, in the Year aforesaid, unto the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, hath continued and laboured, and doth yet continue and labour; and that the said *J. B.* other wrongs to the said *M. W.* then and there, violently and maliciously did, to the great Damage and Impoverishment of the said *J. W.* and *M.* his Wife, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and

Dignity. (*Another Count for a common Assault as before.*)

For an Assault and rescuing Goods Distrained for Rent.

Middlesex. **T**HE Jurors of our Lord the King upon their Oath present, That on the twenty-fifth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain, &c.* and continually afterward, until the twenty-fifth Day of *March*, in the Year aforesaid, *M. E.* did hold of one *J. W.* a certain Room in the Dwelling-House of the said *J. W.* situate in the Parish of *St. John, Wapping*, in the County of *Middlesex*, by Demise from the said *J. W.* to the said *M.* at and under the Rent of fifteen Shillings for the said Time reserved, and by the Demise made payable to the said *J. W.* on the said twenty-fifth Day of *March*, in the Year aforesaid, and that on the said twenty-fifth Day of *March*, in the Year aforesaid, and continually afterward, until the twenty-fourth Day of *June*, in the second Year of the Reign of our said now Lord the King, the said *M. E.* did hold of the said *J. W.* the same Room, by Demise from the said *J.* to the said *M.* at and under the Rent of fifteen Shillings for the last mentioned Time, also reserved, and by the said Demise made payable to the said *J. W.* on the said twenty-fourth Day of *June*, in the second Year of the Reign aforesaid; and that on the said twenty-fourth Day of *June*, in the said second Year of the Reign aforesaid, both the said Sums of fifteen Shillings, amounting together to the Sum of thirty Shillings, were remaining due, and in Arrear, and unpaid for the Rent aforesaid, reserved in Manner aforesaid. And the Jurors aforesaid,
upon

upon their Oath aforesaid, do further present, That the said *M. E.* on the twenty-third Day of *June*, in the second Year of the Reign aforesaid, did fraudulently and clandestinely convey and carry off, and from the said demised Premises, his Goods and Chattels, that is to say, one Pewter Dish of the Value of two Shillings, &c. with

Intent to prevent the said *J. W.* the Here mention the Goods.

Lessor aforesaid, from distraining the same for the said Arrears of Rent, so reserved and due as is aforesaid; whereupon the said *J. W.* afterward, and within the Space of five Days next ensuing the said conveying and carrying off the same Goods, to wit, on the twenty-eighth Day of *June*, in the second Year aforesaid, at the Parish of *St. Leonard, Shoreditch*, in the County aforesaid, did find the said Goods and Chattels, and the same Goods and Chattels so found, did then and there, in due form of Law seize, that is to say, the said Pewter Dish, &c. of the Mention the Goods again. Goods and Chattels of the said *M. E.*

as a Distress for the said Rent so in Arrear as aforesaid, and the said Goods and Chattels in his Custody and Possession, then and there had; and that the said *M. E.* late of the Parish of *St. Leonard, Shoreditch*, aforesaid, in the County aforesaid, Barber-Surgeon, and *S.* his Wife, afterwards, to wit, on the said twenty-eighth Day of *June*, in the second Year of the Reign aforesaid, at the Parish last aforesaid, in the County aforesaid, in and upon the said *J. W.* in the Peace of God, and our said Lord the King, then and there being, did make an Assault, and the said Goods and Chattels (so as aforesaid, for the Cause aforesaid taken and seized) out of the Possession, and against the Will of the said *J. W.* unlawfully, and injuriously did take and rescue (the said Sum of thirty Shillings, so due for Rent as aforesaid, or any Part thereof, not being then

122 Precedents of Indictments, &c.

then paid and satisfied to the said *J. W.*) and other Wrongs to the said *J. W.* then and there did, to the great Damage of the said *J. W.* and against the Peace of our said Lord the King, his Crown and Dignity.

*By the Stat. 8 Ann. c. 14. It is Enacted, "That
 " after the first Day of May, 1710, in Case any
 " Lessee for Life or Lives, Term of Years, at Will
 " or otherwise, of any Messuages, Lands or Tene-
 " ments, upon the Demise whereof any Rents shall be
 " reserved or made payable, shall fraudulently and
 " clandestinely convey or carry off from such demised
 " Premises his Goods or Chattels, with Intent to
 " prevent the Landlord or Lessor from distraining the
 " same for Arrears of such Rent reserved as afore-
 " said; it shall and may be lawful for such Lessor or
 " Landlord, or any Person by him for that Purpose
 " lawfully impowered, within the Space of * five Days
 " next ensuing such conveying away or carrying off
 " such Goods and Chattels as aforesaid, to take and
 " seize such Goods and Chattels, wherever the same
 " shall be found, as a Distress for the said Arrears of
 " such Rent, and the same to sell, or otherwise dis-
 " pose of in such Manner, as if the said Goods and
 " Chattels had actually been distrained by such Lessor
 " or Landlord, in and upon such demised Premises,
 " for such Arrears of Rent, any Law, Custom, &c.
 " to the contrary notwithstanding."*

Assault upon a Game-keeper in the Execution of his Duty.

Kent. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Dartford*, in the County of *Kent*,

* The Time is enlarged to thirty Days by Stat. 11. Geo. 2. c. 19.

Gentleman,

Gentleman, and *C. D.* late of the same, Gentleman, on the fifth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in the Manor of——into a certain Field and Close of, and belonging to *W. S.* there lying and being, unlawfully and injuriously did enter, and in and upon one *E. F.* (Game-keeper of the said Manor, * duly deputed, authorized and appointed by *G. H.* Esquire, then and yet Lord of the Manor aforesaid) in the Peace of God, and our said Lord the King, and in the due Execution of his Duty, as a Game-keeper of the said Manor, then and there being, to make an Assault, and him the said *E. F.* then and there, did beat, wound and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said *E. F.* then and there did, to the great Damage of the said *E. F.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said *A. B.* and *C. D.* on the said fifth Day of *May*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *E. F.* in the Peace of God and our said Lord the King, then and there being, did make an Assault, and him the said *E. F.* did, then and there, beat, wound and ill-treat, so that of his Life it was greatly despaired; and other Wrongs to the said *E. F.* then and there did, to the great Damage of the said *E. F.* and against the Peace of our said Lord the King, his Crown and Dignity.

* To prove this Count, 'tis requisite to produce Deputation and Clerk of the Peace's Certificate of the Entry thereof.

Stat.

124 **Precedents of Indictments, &c.**

Stat. relating to Game-keepers, 22 and 23 Car. 2. c. 25. 5 Ann. Sess. 2. c. 14. Deputation to be entered with the Clerk of the Peace, who is to give a Certificate thereof for a Shilling, 9 Annæ, c. 11. Who to be appointed Game-keepers. Vide Stat. 3 Geo. 1. c. 11.

For feloniously assaulting a Privy Counsellor in the Execution of his Office.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. L.* late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Esq; not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, on the sixth Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the Right Honourable Sir *E. H.* Knight, one of the Privy Counsellors of our said Lord the King, and in the due Execution of his said Office in Council, then and there being, feloniously did make an Assault, and him the said Sir *E. H.* did, then and there, feloniously strike and wound, against the Form of the Statute in such Case made and provided, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Ann. c. 16. it is enacted. That if any Person shall attempt to kill or unlawfully assault, strike, or wound any of her Majesty's Privy-Council, in the Execution of his Office in Council, or in any Committee of Council, being convicted thereof in due Form of Law, he is thereby declared to be a Felon, and shall

shall suffer Death, as in Cases of Felony, without Benefit of Clergy.

The Occasion of this Act; Robert Harley, Esq; (afterwards Earl of Oxford) was stabbed by Anthony Guiscard, who was then under Examination before a Committee of the Privy Council.

For feloniously and maliciously assaulting a Person in the Highway, and spoiling, cutting, and defacing his Garments and Cloaths.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *I. J.* late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, Weaver, *R. D.* late of the same, Labourer, and *R. R.* late of the same, Weaver, being Persons of wicked and malicious Minds, after the 24th Day of *June*, in the Year of our Lord One thousand seven hundred and sixty-one, to wit, on the sixteenth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* with Force and Arms, at the Parish of *St. Andrew, Holbourn*, in the County aforesaid, in a public Street and Highway there, called *Holbourn*, in and upon *E. M.* Spinster, in the Peace of God and our said Lord the King in the said public Street and Highway, then and there being, wilfully, maliciously, and feloniously did make an Assault, with an Intent to tear, spoil, cut, and deface the Garments and Cloaths of her the said *E. M.* and, with Force and Arms, did, in the said public Street and Highway, then and there, wilfully, maliciously, and feloniously tear, spoil, cut, and deface one printed Linen Gown, of the Value of thirty Shillings, of the Goods and Chattels of the said *E. M.* being Part of the Garments and Cloaths of her
the

126 **Precedents of Indictments, &c.**

the said *E. M.* on her Person then and there in wear, against the Form of the Statute in that Case made and provided, to the great Damage of her the said *E. M.* in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 6 Geo. 1. c. 1. it is enacted, That if any Person or Persons, shall at any Time or Times, from and after the twenty-fourth Day of June, in the Year of our Lord One thousand seven hundred and twenty, wilfully and maliciously assault any Person or Persons, in the public Streets or Highways, with an Intent to tear, spoil, cut, burn, or deface the Garments and Cloaths of such Person or Persons, that then, all, and every such Person or Persons, so offending, being thereof lawfully convicted, shall be, and be adjudged guilty of Felony, and every such Felon shall be subject and liable to like Pains and Penalties as in Cases of Felony; and the Courts, by and before whom he, she, or they shall be tried, shall have full Power and Authority of transporting such Felons for the Space of seven Years.

For a felonious Assault with Intent to rob.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. G.* late of the Parish of *St. Botolph*, without *Aldgate*, in the County of *Middlesex*, Labourer, being a wicked and ill-disposed Person, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and thirty-four, to wit, on the sixteenth of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, with Force and Arms,

to

to wit, with a certain Pistol which he the said J. G. in his Right Hand, then and there had and held, in and upon one T. T. in the Peace of God and our said Lord the King, then and there being, unlawfully, maliciously, and feloniously did make an Assault, with a felonious Intent, the Monies of the said T. T. from the Person, and against the Will of him the said T. T. then and there, feloniously to steal, take, and carry away, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Heretofore this Offence was but a Misdemeanor, but the Punishment not being adequate to the Heinousness of the Crime, nor sufficient to deter wicked Persons from such Attempts ; it is enacted, by the Stat. 7. Geo. 2. c. 21. That if any Person or Persons, from and after the first Day of May, One thousand seven hundred and thirty-four, shall, with any offensive Weapon or Instrument, unlawfully and maliciously assault, or shall with Menaces, or any forcible or violent Manner demand any Money, Goods or Chattels, of or from any Person or Persons, that in every such Case, all and every such Person or Persons, so offending, being thereof lawfully convicted, shall be, and be adjudged guilty of Felony, and shall be subject and liable to be transported, as in Cases of Felony ; and the Courts before whom they are tried and convicted, shall have full Power and Authority of transporting such Offenders for the Space of seven Years, upon the like Terms and Conditions, and by the same Ways and Means, and in like Manner as other Felons may or are to be transported to any of his Majesty's Colonies and Plantations in America, by Force or Virtue of any Law for that Purpose now in being.*

* If with Menaces, say what Menaces, in the Indictment.

Such

128 **Precedents of Indictments, &c.**

Such Convicts breaking Gaol, or unlawfully returning from Transportation, shall suffer Death as Felons without Benefit of Clergy.

N. B. This is a perpetual Law, and no Time limited to prosecute.

For assaulting a Person, provoking him to fight, and sending him a Challenge.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *R. B.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Gent. being a Fighter and Disturber of the Peace of our said Lord the King, on the twentieth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon *W. C.* in the Peace of God, and our said Lord the King, then and there being did make an Assault, and with Threats and opprobrious Language, then and there wickedly and maliciously did stir up, provoke and excite him the said *W. C.* to fight a Battle against him the said *R. B.* And further, that the said *R. B.* afterwards, to wit, on the same Day and Year above mentioned, at the Parish aforesaid, in the County aforesaid, came with Force and Arms, and with Threats and opprobrious Language, then and there wickedly and maliciously did stir up, provoke, and excite him the said *W. C.* then and there being, in the Peace of God and our said Lord the King, to fight against him the said *R. B.* a Duel with Swords and Pistols, and the said *R. B.* other Wrongs to the said *W. C.* then and there did, to the great Damage and Terror of him the said *W. C.* in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending,

ſending, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

For ſending a Challenge in a Letter.

City, Borough and Town of **T**HE Jurors of our Lord the King upon their Oath preſent, *Westminster* That *J. N.* late of the Pariſh of *St. Paul, Covent-Garden*, within the *in the County of* *Middleſex.* Liberty of the Dean and Chapter of the Collegiate Church of *St. Peter, Westminster*, the City, Borough and Town of *Westminster*, in the County of *Middleſex*, Yeoman, being a Perſon of a wicked and malicious Diſpoſition, and a common Dueller, Fighter, and Diſturber of the Peace of our ſaid Lord the King, and not having the Fear of God before his Eyes, but being moved and ſeduced by the Inſtigation of the Devil, on the ſixteenth Day of *May*, in the firſt Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at the Pariſh aforeſaid, within the Liberty aforeſaid, in the County aforeſaid, wickedly and maliciously intending and deſigning as much as in him lay, not only to diſquiet and terrify one *T. E.* but alſo the ſaid *T. E.* maliciously, violently, and wickedly to kill and murder; and he ſaid *J. N.* his ſaid malicious and wicked Intentions and Deſigns, the ſooner to compleat, perfect and put in Practice afterwards, to wit, on the ſaid ſixteenth Day of *May*, in the Year aforeſaid, with Force and Arms, at the Pariſh aforeſaid, within the Liberty aforeſaid, in the County aforeſaid, did unlawfully and wickedly provoke, and excite the ſaid *T. E.* to fight and duel againſt him the ſaid *J. N.* with a Sword; and that he the ſaid *J. N.* a certain Challenge in the Name of the ſaid *J. N.* in the Form of a Letter to the ſaid *T. E.* directed, did then and there maliciously, wickedly,

130 Precedents of Indictments, &c.

kedly, and diabolically write, and cause to be written, which said Challenge so as aforesaid, written and directed, he the said J. N. afterwards, to wit, on the said sixteenth Day of May, in the Year aforesaid, at the Parish aforesaid, within the Liberty aforesaid, in the County aforesaid, maliciously and wickedly to the said T. E. did send and deliver, and cause to be sent and delivered, to the great Damage and Terror of him the said T. E. to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Poph. 158.
3 Inst. 158.
1 Sid. 186.
1 Keb. 694.
Hob. 120.
215, 2 Rol.
Ab. 78.

It is a very high Offence to challenge another, either by Word or Letter, to fight a Duel, or to be the Messenger of such a Challenge, or even barely to endeavour to provoke another to send a Challenge, or to fight; as by dispersing Letters to that Purpose, full of Reflections, and insinuating a Desire to fight, &c.

An Affray may receive an Aggravation from the dangerous Tendency thereof, as where

Poph. 153.
3 Inst. 158.

Persons coolly and deliberately engage in a Duel, which cannot but be attended with the apparent Danger of Murder, and is not only an open Defiance of the Laws, but carries with it a direct Contempt of the Justice of the Nation, as putting Men under a Necessity of righting themselves; upon which Considerations, Persons, convicted of barely sending a Challenge, have been adjudged to pay a Fine of One hundred Pounds, and to be imprisoned for one Month, without Bail, and also to make a public Acknowledgment of their Offence, and to be bound to their good Behaviour.

1 Sid. 186.
1 Keb. 194.

Moore 563.
pl. 763.

B A I L.

For feloniously personating another Person, and becoming Bail in his Name before a Commissioner appointed to take Bail in the Country.

Norfolk. **T**HE Jurors for our Lord the King upon their Oath present, That on the sixteenth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* our said Lord the King, by his Writ of *Capias* issued out of the Court of our said Lord the King of *Common-Bench* at *Westminster*, bearing Date the same Day and Year, directed to the Sheriff of *Norfolk*, did command the said Sheriff, that he should take *J. R.* late of Yeoman, and *J. D.* if they should be found in his Bailiwick, and safely keep them, so that he might have their Bodies before the Justices of our said Lord the King at *Westminster*, in three Weeks from the Day of *St. Michael*, to answer to *D. D.* of a Plea, that he render to him fifty Pounds, which he owed to and unjustly detained from him, which same Writ afterwards, and before the Return of the same, to wit, on the eighteenth Day of *September*, in the Year aforesaid, at (*the Place where delivered to the Sheriff*) was delivered to *A. S. Esq;* Sheriff of the County aforesaid, in Form of Law to be executed, which said *A. S.* Sheriff of the County aforesaid, by Virtue of the Writ aforesaid afterwards, and before the Return of the said Writ, to wit, on the said eighteenth Day of *September*, in the Year aforesaid, did make a certain Warrant of him the said Sheriff, under his Seal, directed to *S. C.* and *R. R.* his Bailiffs of the

Hundred of in the County aforesaid, by which he commanded them jointly and severally, that they should take the said *J. R.* in the Writ above-named, to answer the said *D. D.* of a Plea that he render to him fifty Pounds, which he owed to and unjustly detained as aforesaid; and that the said *S. C.* in the Warrant aforesaid named, afterward and before the Return of the said Writ, to wit, on the twenty-fifth Day of *September*, in the Year aforesaid, by Virtue of the Writ and Warrant aforesaid, at (*at the Place*) in the County aforesaid, did take and arrest the said *J. R.* in the said Writ and Warrant above named, according to the Command of the Writ and Warrant aforesaid, and him the said *J. R.* then and there had in his Custody, by Virtue of the said Writ and Warrant aforesaid. And that *J. M.* late of in the County aforesaid, Yeoman, being a malicious and ill-designing Person, and wickedly contriving and intending to prejudice, and bring one *C. G.* to great Expences, and unlawfully to subject him, the said *C. G.* to the Payment of a great Sum of Money afterwards, to wit, on the said twenty-fifth Day of *September*, in the Year aforesaid, at in the the County aforesaid, in his own proper Person, came before *J. F.* Gent. and then and there, with Force and Arms, feloniously did represent and personate the Person of the said *C. G.* of in the County aforesaid, Yeoman, and in the Name and by the Addition of him the said *C. G.* did become Bail for the said *J. R.* in a certain Recognizance taken before the said *J. F.* in the Action aforesaid (he the said *J. F.* then and there having full and lawful Power and Authority, by Virtue of a Commission under the Seal of the said Court of *Common Bench*, to take a Recognizance in that Behalf, in the said County of *Norfolk*, according to the Form of the Statute in such Case made

made and provided) by which said Recognizance, he the said *J. M.* (by feloniously representing and personating the Person of the said *C. G.*) in the Name, and by the Addition of him the said *C. G.* as aforesaid, before the said *J. F.* then and there unlawfully and feloniously did acknowledge to owe to the said *D. D.* the Sum of fifty Pounds, to be levied upon the Goods and Chattels, Lands and Tenements of him the said *C. G.* upon Condition, that if the said *J. R.* should be condemned in the said Action, he, the said *J. R.* should pay the Condemnation-Money, or render himself into the *Fleet* for the same; or, if he failed so to do, he the said *C. G.* (meaning the said *C. G.* of in the County of *Norfolk* aforesaid, Yeoman, so represented and personated by the said *J. M.* as aforesaid) did undertake to do it for him (meaning the said *J. R.*) whereby the said *C. G.* so represented and personated as aforesaid, was liable to the Payment of the said Sum of fifty Pounds, to be recovered in the same Action, as if he had really himself acknowledged and entered into the said Recognizance, against the Form of the Statute in such Case made and provided, to the evil Example of all others in the like Case offending, to the great Damage of the said *C. G.* and against the Peace of our Lord the King, his Crown and Dignity.

By the Stat. 4. *W. & M. c. 4.* (intituled, An Act for taking special Bails in the Country, upon Actions and Suits depending in the Courts of *King's Bench*, *Common Pleas*, and *Exchequer* at *Westminster*) It is enacted, That, if any Person or Persons shall (before any Person or Persons impowered by Virtue of this Act to take Bail or Bails) represent or personate any other Person or Persons, whereby the Person or Persons so represented or personated, may be liable to the Payment of any Sum or Sums of Money for Debt or Damages to be recovered, in the same Suit or Action,

134 *Precedents of Indictments, &c.*

wherein such Person or Persons are represented and personated, as if he or they had really acknowledged and entered into the same, being lawfully convicted thereof, shall be adjudged, esteemed, and taken to be Felons, and suffer the Pains of Death, and incur such Forfeitures and Penalties as Felons in other Cases convicted or attainted, do, by the Law of England, lose and Forfeit.

By the Stat. 21 Jac. 1. c. 26. All Persons who shall acknowledge, or procure to be acknowledged, any Fine or Fines, Recovery or Recoveries, Deed or Deeds inrolled, Statutes or Recognizances, Bail or Judgment, in the Name of any Person or Persons not privy or consenting to the same, and being thereof lawfully convicted or attaint, shall incur the Penalties of Felons without Benefit of Clergy.

No Corruption of Blood nor loss of Dower.

A Bail before a Judge was not Bail within this Statute, till it was filed of Record, and if it was not filed, the acknowledging thereof in another's Name was not Felony, but a Misdemeanor only; but now it is Felony by the Stat. 4 W. & M. c. 4. See 9 Geo. 2. c. 35.

B A N K R U P T.

Indictment against a Bankrupt for concealing his Effects.

Somerset. **T**HE Jurors for our Lord the King upon their Oath present, That *J. B.* late of the Parish of *L. and W.* in the County of *S. Wheelwright*, on the twentieth Day of *January*, in the thirty-third Year of the Reign of *George the Second*, late King of *Great Britain, &c.* and for the Space of One whole Year and more than last past, at the Parish aforesaid, in the County aforesaid,

said, did use and exercise the Trade of Merchandize by Way of Bargaining, Exchange, Bartering and Chevifance; and during the whole Time aforesaid did there seek his Trade of Living by Buying and Selling; and the said *J. B.* so as aforesaid using and exercising the Trade of Merchandize, by Way of Bargaining, Exchange, Bartering and Chevifance, and seeking his Trade of Living by Buying and Selling, on the said twentieth Day of *January*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, became indebted to *R. S.* of the City of *B.* in the County aforesaid, Victualler, in the Sum of One hundred Pounds and upwards, of lawful Money of *Great Britain*, for a just and true Debt; and being so indebted, and so as aforesaid using and exercising the Trade of Merchandize, he the said *J. B.* afterwards, to wit, on the same Day, and in the Year above mentioned, at the Parish aforesaid, in the County aforesaid, became a Bankrupt within the true Intent and Meaning of the several Statutes made and then in Force concerning Bankrupts, some or one of them, that is to say, by withdrawing himself, &c. and afterward, to wit, on the nineteenth Day of *May*, in the said thirty-third Year of the Reign of the said late King *George* the Second, upon a Petition exhibited by the said *R. S.* unto the Right Honourable *Robert* Lord *Henley*, Baron of *Grainge* in the County of *Southampton*, then Lord Keeper of the Great Seal of *Great Britain*, bearing Date the same Day and Year, a certain Commission of the said late King, upon the Statute made and provided concerning Bankrupts, was duly awarded and issued in the Court of *Chancery* of the said late King, under the Great Seal of *Great Britain*, against the said *J. B.* the Bankrupt aforesaid, by the Name and Addition of *J. B.* of, &c. bearing Date at *Westminster* the same Day and Year last mentioned,

136 **Precedents of Indictments, &c.**

by which said Commission, the said last Lord the King did name, assign, appoint, constitute and ordain *T. V. R. L. Esqrs. T. H. R. B. F. and J. B. Gentlemen*, his Majesty's special Commissioners; thereby giving full Power unto them four, or three of them, to proceed according to the same Statutes in the same Commission mentioned, and all other Statutes in Force concerning Bankrupts; not only concerning the said Bankrupt, his Body, Lands, Tenements, Freehold, and customary Goods, Debts and other Things whatsoever, but also concerning all other Persons who by Concealment, Claim, or otherwise, did or should offend touching the Premises in the said Commission specified, or any Part thereof, contrary to the true Intent and Meaning of the said Statutes, and to do and execute all and every Thing and Things whatsoever, as well for and towards Satisfaction and Payment of his said Creditors, as towards and for all other Intents and Purposes according to the Ordinance and Provision of the same Statutes as by the said Commission among other Things therein contained doth more fully appear; and afterwards, to wit, on the twenty-third Day of *May*, in the thirty-third Year aforesaid, at the City of *B.* aforesaid, in the County aforesaid, the said *J. B.* was by the said *T. V. T. H. and R. B. F.* three of the aforesaid Commissioners in the same Commission named (having first severally duly taken the Oath of a Commissioner of Bankrupt in that Behalf, before they or either of them otherwise acted in the Execution of any of the Powers or Authorities mentioned or expressed in the said Commission, according to the Form of the Statute in such Case lately made and provided) in due Form of Law declared and adjudged a Bankrupt; and the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. B.* being so as aforesaid a Bankrupt, and being
so

so declared and adjudged a Bankrupt, and being then so indebted to the said *R. S.* as aforesaid, and also to *C. R.* and diverse others whose Names are yet unknown to the said Jurors, in divers large Sums of Money, Notice in Writing was on the twenty-fourth Day of *May*, in the Year aforesaid, delivered to the said *J. B.* at the then usual Place of Abode of the said *J. B.* And Notice was likewise given in the *London Gazette* of *Saturday* the twenty-ninth Day of *May*, in the Year aforesaid, that such Commission as aforesaid was issued against the said *J. B.* and that he the said *J. B.* was declared Bankrupt; and that he was required to surrender himself to the Commissioners in the said Commission named, or the major Part of them, on the ———— and ———— of *June*, and on the tenth Day of *July* then next following, at ten of the Clock in the Forenoon on each of the said Days, at the Sign of, *&c.* in the City of *B.* (being the Times and Place of Meeting of the Commissioners in the said Commission named, or the major Part of them) and make a full Discovery and Disclosure of his Estate and Effects, and that at such last Sitting he was to finish his Examination, pursuant to the Directions of the Statute in that Case made; and the Jurors aforesaid upon their Oath further present, that on the said several Days, and at the place last aforesaid, the said *T. V.* *T. H.* and *R. B. F.* being the major Part of the Commissioners in the said Commission named and authorised, did meet accordingly; and the said *J. B.* being then and there examined upon Oath touching his Estate and Effects, and fraudulently and wickedly devising to cheat and defraud the said *R. S.* and others his just Creditors, he the said *J. B.* did not then and there fully and truly disclose and discover unto the said last mentioned Commissioners, then and there met as aforesaid, all his Effects and Estate, real and personal,

personal, and how and in what Manner, and to whom and upon what Consideration, and at what Time or Times he had disposed of, assigned or transferred diverse of his Goods, Wares and Merchandises, of the Value of twenty Pounds and upwards, Part of his personal Estate, to wit, twelve Deal Wainscot Doors, of the Value of three Pounds twelve Shillings; four Waggon Wheels and Cart Wheels made of Wood, of the Value of three Pounds; ten Pair of Sashes made of Deal Wood, unglazed, of the Value of three Pounds twelve Shillings; Thirty new Deals, of the Value of four Pounds ten Shillings; eighteen Inch Oak Boards, of the Value of one Pound sixteen Shillings; six Pair of Steel Chaise Springs, of the Value of six Pounds; one Saddle and one other Saddle, called a Chaise-Saddle, of the Value of twenty Shillings together; one Fowling-Piece of the Value of fifteen Shillings, and one Bullock's Hide of the Value of fifteen Shillings, which, at at the said Time when he the said *J. B.* so as aforesaid became Bankrupt, and also at and before the issuing of the said Commission, and since, to wit, on the said tenth Day of *July*, in the thirty-fourth Year of the Reign of our said Lord the late King, he was possessed of, interested in, and entitled unto (the said Goods not being before that Time really & *bona fide* sold by the said *J. B.* in the Way of his Trade or Dealings) but he the said *J. B.* then and there, to wit, the said tenth Day of *July*, in the thirty-fourth Year aforesaid, at the Parish aforesaid, in the County aforesaid, with Force and Arms, fraudulently and feloniously did remove, conceal and imbezzle the Goods, Wares and Merchandises aforesaid, and did not deliver up the same, or any Part thereof, to the said Commissioners by the said Commission authorised, or to the said *T. V. T. H.* and *R. B. F.* being the major
Part

Part of them, with an Intent then and there to defraud the said R. S. and others his just Creditors, of the same, in evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said late Lord the King, his Crown and Dignity.

Felony without Benefit of Clergy, by 5 G. 2. cap. 30. continued by 9 G. 2. cap. 18. to 29 Sept. 1743. by 16 G. 2. cap. 27. to 29 Sept. 1750. by 24 G. 2. cap. 57. to 1 Sept. 1757. and by 31 G. 2. cap. 35. to 29 Sept. 1764. and to the End of the then next Session of Parliament.

Against a Bankrupt for not surrendering himself to the Commissioners to be examined, touching his Effects.

London. **T**HE Jurors of our Lord the King upon their Oath present, That *W. G.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Mariner and Merchant, on the sixth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* and for the Space of one whole Year, then last past, at the Parish aforesaid, in the said County of *Middlesex*, did use and exercise the Trade of Merchandize, by way of Bargaining, Exchange, Bartering, and Chevisance; and during the whole Time aforesaid, did then and there seek his Trade of Living by Buying and Selling; and the said *W. G.* so as aforesaid, using and exercising the Trade of Merchandize, by way of Bargaining, Exchange, Bartering, and Chevisance, and seeking his Trade of Living by Buying and Selling, on the said sixth Day of *November*, in the said first Year of the Reign of our said now Lord
the

the King, at the Parish aforesaid, in the said County of *Middlesex*, became indebted to *S. T.* a Creditor of him the said *W. G.* in the Sum of one hundred and forty Pounds, of lawful Money of *Great Britain*, for a just and true Debt; and being so indebted, and so as aforesaid using and exercising the Trade of Merchandize, he the said *W. G.* afterwards, to wit, on the said sixth Day of *November*, in the said first Year of the Reign of our said now Lord the King, at the Parish aforesaid, in the County aforesaid, became a Bankrupt; and afterward, to wit, on the sixteenth Day of *May*, in the first Year aforesaid, a certain Commission of our said Lord the King, upon the Statutes made and provided concerning Bankrupts, was duly awarded and issued out of the Court of *Chancery* of our said now Lord the King, under the Great Seal of *Great Britain*, against the said *W. G.* the Bankrupt aforesaid, bearing Date at *Westminster* the same Day and Year last mentioned; by which same Commission our said Lord the King did name, assign, appoint, constitute and ordain *T. L. E. S. J. W.* and *A. H.* Esqrs. his special Commissioners, thereby giving full Power and Authority to the same Commissioners, four or three of them, to proceed according to the Statutes in the same Commission mentioned, and all other Statutes in Force concerning Bankrupts, not only concerning the said Bankrupt, his Body, Lands, Tenements, Freehold, and Customary Goods, Debts, and other Things whatsoever, but also concerning all other Persons, who by Concealment, Claim, or otherwise, did or should offend touching the Premises in the said Commission specified, or any Part thereof, contrary to the true Intent and Meaning of the said Statutes; to do and execute all and every Thing and Things whatsoever, as well for and towards Satisfaction and Payment of the Creditors of the said *W. G.* and for all other Intents and Purposes, according

according to the Ordinance and Provision of the same Statutes, as by the Commission aforesaid (among other Things therein contained) doth more fully appear; and afterwards, to wit, on the twenty-third Day of *May*, on the said first Year of the Reign of our said now Lord the King at *London*; that is to say, at the Parish of *St. Michael Bassishaw*, in the Ward of *Bassishaw*, in *London* aforesaid, the said *W. G.* was, by the said *T. L. J. W.* and *A. H.* three of the aforesaid Commissioners, in the said Commission named, in due Form of Law, declared a Bankrupt within the true Intent and Meaning of the several Statutes made concerning Bankrupts, some or one of them; whereupon, afterwards, to wit, on the twenty-seventh Day of *May*, in the first Year aforesaid, Notice in Writing was left at the Dwelling-House of the said *W. G.* situate in a certain Place called _____ in the said Parish of *St. Paul, Shadwell*, in the said County of *Middlesex* (the same House then being the usual Place of Abode of the said *W. G.*) that a Commission of Bankruptcy had been awarded against him the said *W. G.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Mariner and Merchant; and that the said *W. G.* had been declared a Bankrupt by Virtue of the then present Acts of Parliament, relating to Bankrupts; and he the said *W. G.* was by the said Notice commanded and required to surrender himself to the said *T. L. J. W.* and *A. H.* being the major Part of the Commissioners in the said Commission named and authorised, on the third and thirteenth Days of *June* then next, and on the eighth Day of *July* following, at three of the Clock in the Afternoon, at the *Guildhall* of the City of *London*, on each of the said Days respectively, then and there to submit himself to be examined from Time to Time, and in all Things to conform himself to the Directions

tions of the Acts aforesaid, and afterwards, to wit, on the said twenty-seventh Day of *May*, in the said first Year of the Reign of our said now Lord the King, Notice was given and published in certain printed Paper, called the *London Gazette*, that a certain Commission of Bankruptcy had been awarded against the said *W. G.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Mariner and Merchant, and that he had been declared a Bankrupt; and he the said *W. G.* was by the same Notice, so as aforesaid published in the said *London Gazette*, required to surrender himself to the Commissioners on the third and thirteenth Days of *June*, and on the eighth of *July* following, at three of the Clock in the Afternoon, at the *Guildhall, London*; and make a full Discovery and Disclosure of his Estate and Effects. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that afterward, to wit, upon the thirtieth Day of *June*, in the Year of our Lord One thousand seven hundred and sixty-one, *Robert Lord Henley*, Baron of *Grainge*, then Lord Chancellor of *Great Britain*, by a certain Order, bearing Date the Day and Year last aforesaid, pursuant to the Statute in that Case made and provided, did enlarge the Time for the said *W. G.*'s surrendering himself, and discovering and disclosing his Estate and Effects for fifty Days to be computed from the eighth Day of *July* aforesaid, and afterward, to wit, on the twelfth Day of *July*, in the said Year of our Lord one thousand seven hundred and sixty-one, and in the first Year of the Reign of our said now Lord the King, Notice was given and published in a certain printed Paper, called the *London Gazette*, that the said Lord High-Chancellor of *Great Britain* had enlarged the Time for the said *W. G.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Mariner and Merchant, against whom a Commission of Bankruptcy

ruptcy had been awarded, to surrender and finish his Examination within the Space of fifty Days, to be computed from the eighth Day of *July* then Instant; and that the Commissioners did intend to meet on the twenty-seventh Day of *August* then next, at three of the Clock in the Afternoon, at the *Guildhall, London*; at which Time the said Bankrupt, by the said last mentioned *Gazette*, was required to surrender and finish his Examination; yet he the said *W. G.* late of the said Parish of *St. Paul, Shadwell*, in the County of *Middlesex* aforesaid, Mariner and Merchant, lightly regarding the Laws and Statutes of this Realm, and not fearing the Pains and Penalties contained therein, did not, upon the said twenty-seventh Day of *August*, or upon any of the Days and Times for the Purpose before mentioned, or at any other Time whatsoever, surrender himself to the aforesaid *T. L. E. S. J. W.* and *A. H.* the said Commissioners in the said Commission named, or to the major Part of them, and submit to be examined as aforesaid, but did feloniously and wilfully make Default, and omit and neglect to surrender himself to, and to be examined by and before the said Commissioners, or the major Part of them, as aforesaid; that is to say, at the *Guildhall* in *London* aforesaid, in the said Parish in *St. Michael Bassishaw*, in the Ward aforesaid, in *London* aforesaid, against the Form of the Statute in such Case made and provided, and against the Peace of our said now Lord the King, his Crown and Dignity.

A Bankrupt not surrendering himself, and submitting to be examined, or concealing or imbezling his Effects, is guilty of Felony, Stat. 5 Geo. 2. c. 30. §. 11. Those that conceal or protect Bankrupts Effects, how punished? §. 20, 21.

B A R R A T R Y.

An Indictment for being a common Barrator.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Martin* in the *Fields*, in the County of *Middlesex*, Labourer, on the fifteenth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. and diverse other Days and Times, as well before as afterwards, was, and yet is a common Barrator; and that he the said *A. B.* on the said fifteenth Day of *October*, and diverse other Days and Times, at the Parish aforesaid, in the County aforesaid, diverse Quarrels, Strifes, Suits and Controversies, among the honest and quiet liege Subjects of our said Lord the King, then and there did move, procure, stir up and excite, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

A Barrator, or Barretor, signifies a common Wrangler, who setteth Men at Odds, and is himself never quiet, but at Brawl with one or other. Cow. Interp.

Every Justice of the Peace (at his Discretion) may bind to the Peace, or good Behaviour, such as are common Barrators.

A common Barrator is he, who either is a common Mover or Stirrer-up (or Maintainer) of Suits in Law in any Court, or else of Quarrels. 1 Inst. 368.

If any Court of Record, County-Court, Hundred, or other inferior Court, any Persons, by Fraud or Malice, under Colour of Law, shall themselves maintain, or stir up others, unto Multiplicity of unjust and feigned

feigned Suits, or Informations (upon any Penal Laws) or shall maliciously purchase a special Supplicavit, to force another to yield him Composition, all such are Barrators.

Disturbers of the Peace, as commonly quarrel or fight in their own Causes, or common Movers of Quarrels and Affrays between others, are Barrators.

Common Takers or Detainers (by Force or Subtily) of Possession of Houses, or Lands, or Goods, which have been in Question or Controversy, are Barrators.

Inventors and Sowers of false Reports, whereby Discord ariseth, or may arise between Neighbours, are Barrators. 8. Co. 36.

But all such Persons must be common Barrators, not in one or two, but many Instances. Ibid. See Stat. 3 Ed. 1. c. 33.

BASTARDY.

For Felony in concealing the Death of a Bastard Child.

Northampton. **T**HE Jurors for our Lord the King upon their Oath present, That *M. L.* late of *Chappel-Brampton*, in the County of *Northampton*, Spinster, on the seventh Day of *February*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* being big with a Male Child the same Day and Year, at *Chappel-Brampton* aforesaid, in the County aforesaid, by the Providence of God, did bring forth the said Child alive, of the Body of her the said *M.* alone, and in secret; which said Male Child, so being born alive, by the Laws of this Realm, was a Bastard; and that the said *M. L.* not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, afterward, to wit, on the said seventh

L

Day

Day of *February*, in the Year aforesaid, as soon as the said male Bastard Child was born, with Force and Arms, at *Chappel-Brampton* aforesaid, in the County aforesaid, in and upon the said Child, in the Peace of God, and our said Lord the King, then and there being, feloniously, wilfully, and of her Malice aforethought, did make an Assault; and that she the said *M.* with both her Hands about the Neck of him the said Child, then and there fixed him the said Child, then and there feloniously, wilfully, and of her Malice aforethought, did choak and strangle, of which said Choaking and Strangling, the said Child then and there instantly died; and so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *M. L.* him the said male Bastard Child, in Form aforesaid, feloniously, wilfully, and of her Malice aforethought, did kill and murder, against the Peace of our said Lord the King, his Crown and Dignity,

By the Stat. 21 Jac. 1. c. 27. it is enacted, That if any Woman be delivered of any Issue of her Body, Male or Female, which being born alive, should by the Laws of this Realm be a Bastard, and that she endeavour privately, either by drowning, or secret burying thereof, or any other Way, either by herself, or procuring others to conceal the Death thereof, as that it may not come to light, whether it were born alive or not, but be concealed, in every such Case the Mother shall suffer Death, as in a Case of Murder, except such Mother can make Proof by one Witness at the least, that the Child (whose Death was by her so intended to be concealed) was born Dead.

The Indictment to put the Prisoner to this Proof, by one Witness, that the Child was dead born, must contain this special Matter, That the Prisoner was delivered of a Child, which by the Laws of the Kingdom

dom was a Bastard, and that it was born alive, and she w how she killed it.

But the Indictment need not alledge, that she concealed it ; but it must be proved upon Evidence, if the Advantage be taken of the Statute against her.

** The Indictment need not conclude, against the Form of the Statute ; for the Statute only directs the Evidence, where the Case is within it, but creates not a new Crime.*

If there is no Concealment proved, yet it is left to the Jury to inquire, whether she murdered it or not, by those Circumstances that occur in this Case, as if it be wounded or hurt, &c. but it does not put her upon an absolute Necessity of proving it born alive, by one Witness, and so the Evidence stands but as at Common Law.

If upon View of the Child, it be testified by one Witness, by apparent Probabilities, that the Child was not come to its Debitum Partûs Tempus, as if it have no Hair, or Nails, or other Circumstances, this (says the Lord Chief Justice Hale, in his second Volume Historiæ Placitor. Coronæ, cap. xxxix.) I have always taken to be a Proof by one Witness, that the Child was born dead, so as to leave it nevertheless to the Jury, as upon a Common Law Evidence, whether she were guilty of the Death or not.

B I G A M Y.

For Marrying a Second Husband or Wife, the former being Living.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. R.* late of the Parish of St. Sepulcher, in the

* See Ann Davis's Case, Keyl. 32.

County of *Middlesex*, Labourer, on the first Day of *July*, in the thirty-first Year of the Reign of his late Majesty King *George* the second, of *Great Britain, &c.* at *London*, to wit, in the Parish of *St. Bridget*; otherwise *Brides*, in the Ward of *Farringdon without*, did marry one *F. U.* Spinster, and her the said *F.* then and there had for his Wife; and that the said *W. R.* afterwards, to wit, the fourth Day of *April*, the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at *London* aforesaid, to wit, in the said Parish of *St. Bridget*, otherwise *Brides*, in the said Ward of *Farringdon without*, feloniously did marry, and to Wife did take one *M. Y.* Spinster, and to the said *M.* then and there was married (the said *F.* his former Wife being then living, and in full Life) against the Form of the Statute in such Case made and provided, and against the Peace of our said now Lord the King, his Crown and Dignity. And the

This Part omitted when the Delinquent is taken where the Felony was committed.

Jurors aforesaid, upon their Oath aforesaid, do further present, That afterward, to wit, on the second Day of *October*, in the first Year of the Reign of our said Lord King *George* the Third, the said *W. R.* at the said Parish of *St. Andrew, Holbourn*, in the said County of *Middlesex*, was apprehended and taken for the Felony aforesaid.

By the Stat. 1 Jac. 1. c. 11. This Offence is Felony, and punishable with Death, but no Mention made of Clergy, so that Clergy has been for the most Part, or always allowed to Offenders, and the Parties may be proceeded against in the County where they shall be apprehended, as if the Offence had been committed in that County, and is the Reason why the Caption of the Party is added to the Indictment, in Order to make the

the Offender culpable of Felony, in such County where he shall be so apprehended; which latter Part of the Indictment is to be omitted, if the Offender be tried where the Felony was actually committed.

Not to extend to Persons whose Husband or Wife shall be continually remaining beyond the Seas, by the Space of seven Years together, or whose Husband or Wife shall absent him or her-self for the like Space, in any Part within his Majesty's Dominions, the one of them not knowing the other to be living within that Time. Nor to extend to Persons divorced, or to Persons where the former Marriage shall be declared to be void by Sentence in the Ecclesiastical Court; nor to any Person or Persons, for or by Reason of any former Marriage within Age or Consent.

This is a perpetual Law, and no Time limited to prosecute.

Other Offences against the Rights of Marriage are looked upon as Spiritual Offences, and Punishable only by the Ecclesiastical Law. Cro. Eliz. 94.

Those divorced a Vinculo Matrimonii, and those divorced a Mensa & Thoro Causa Adulterii or Sevitiae, are within the Exception of the Statute, notwithstanding there be not the Words We Divorce, but only the Words We Separate, in the Sentence; the Statute, being penal, shall be favourably construed, and such Separations are taken for Divorces in common Understanding.

The Construc-
tion of the Stat.
1 Jac. 1. c. 11.
3 Inst. 89.
H. P. C. 122.
Keyling 27.
Cro. Car. 461,
462. this is made
a Query.

If the first Marriage was beyond Sea, and the latter in England, the Party is indictable here; for it is the second Marriage that makes the Offence; but if

150 **Precedents of Indictments, &c.**

the first Marriage was in England; the latter beyond Sea, it is said the Offender cannot be indictable here; but the Words of this Statute are, "That the Parties so offending shall receive such and the like proceeding, Trial and Execution, in such County, where such Person or Persons shall be apprehended, as if the Offence had been committed in such County, where such Person or Persons shall be taken or apprehended."

1 Sid. 171.
Kelynge 80.

B L A C K A C T.

For Felony; in appearing armed, disguised, and stealing Deer in an inclosed Park.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Enfield*, in the County of *Middlesex*, Labourer, *C. D.* late of the same, Labourer, and *E. F.* late of the same, Labourer, being ill-designing and disorderly Persons, not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, after the first Day of *June*, One thousand seven hundred and twenty-three, to wit, on the sixth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. being armed with Pistols and other offensive Weapons, having their Faces blacked and disguised, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in a certain Park there lying and being, (inclosed with Wooden Pales, where Deer had been usually and then were kept, belonging to Sir *J. S. Bart.*) unlawfully and feloniously did enter and appear, and one Fallow Deer of the Price of forty Shillings, of the Goods and Chattels of the said Sir *J. S.* in the same Park, then and there being

being found with Force and Arms, then and there unlawfully, wilfully and feloniously did hunt, wound, kill, destroy, steal, take and carry away, against the Form of the Statute in such Case made and provided, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. c. 22. If any Person or Persons, from and after the first Day of June, in the Year of our Lord One thousand seven hundred and twenty-three, being armed with Swords, Fire-Arms, or other offensive Weapons, and having his or their Faces blacked, or being otherwise disguised, shall appear in any Forest, Chase, Park, Paddock or Ground inclosed with any Wall, Pale, or other Fence, wherein any Deer have been or shall be usually kept, or in any Warren or Place where Hares or Conies have been or shall be usually kept, or in any High-Road, open Heath, Common or Down, or shall unlawfully and wilfully hunt, wound, kill, destroy or steal any Red or Fallow Deer, or unlawfully rob any Warren or Place where Conies or Hares are usually kept, He or They shall suffer Death as in Cases of Felony, without Benefit of Clergy. This Stat. is made Perpetual by 31 Geo. 2. c. 42.

For Felony; in breaking down the Head and Mound of a Fish-Pond, whereby the Fish were lost.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Hornsey*, in the County of *Middlesex*, Labourer, being an evil-disposed Per-

L 4
son,

150 **Precedents of Indictments, &c.**

the first Marriage was in England; the
 1 Sid. 171. *latter beyond Sea, it is said the Offender*
 Kelynge 80. *cannot be indictable here; but the Words*
of this Statute are, " That the Parties so offending
" shall receive such and the like proceeding, Trial and
" Execution, in such County, where such Person or
" Persons shall be apprehended, as if the Offence had
" been committed in such County, where such Person
" or Persons shall be taken or apprehended.

B L A C K A C T.

For Felony; in appearing armed, disguised,
and stealing Deer in an inclosed Park.

Middlesex. **T**HE Jurors for our Lord the King
 upon their Oath present, That *A. B.*
 late of the Parish of *Enfield*, in the County of
Middlesex, Labourer, *C. D.* late of the same, La-
 bourer, and *E. F.* late of the same, Labourer, be-
 ing ill-designing and disorderly Persons, not regard-
 ing the Laws and Statutes of this Realm, nor the
 Pains and Penalties therein contained, after the first
 Day of *June*, One thousand seven hundred and
 twenty-three, to wit, on the sixth Day of *Decem-*
ber, in the first Year of the Reign of our Sovereign
 Lord *George* the Third, now King of *Great Britain*,
&c. being armed with Pistols and other offensive
 Weapons, having their Faces blacked and disguis-
 ed, with Force and Arms, at the Parish aforesaid,
 in the County aforesaid, in a certain Park there ly-
 ing and being, (inclosed with Wooden Pales, where
 Deer had been usually and then were kept, belong-
 ing to Sir *J. S.* Bart.) unlawfully and feloniously
 did enter and appear, and one Fallow Deer of the
 Price of forty Shillings, of the Goods and Chattels
 of the said Sir *J. S.* in the same Park, then and there
 being

being found with Force and Arms, then and there unlawfully, wilfully and feloniously did hunt, wound, kill, destroy, steal, take and carry away, against the Form of the Statute in such Case made and provided, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. c. 22. If any Person or Persons, from and after the first Day of June, in the Year of our Lord One thousand seven hundred and twenty-three, being armed with Swords, Fire-Arms, or other offensive Weapons, and having his or their Faces blacked, or being otherwise disguised, shall appear in any Forest, Chase, Park, Paddock or Ground inclosed with any Wall, Pale, or other Fence, wherein any Deer have been or shall be usually kept, or in any Warren or Place where Hares or Conies have been or shall be usually kept, or in any High-Road, open Heath, Common or Down, or shall unlawfully and wilfully hunt, wound, kill, destroy or steal any Red or Fallow Deer, or unlawfully rob any Warren or Place where Conies or Hares are usually kept, He or They shall suffer Death as in Cases of Felony, without Benefit of Clergy. This Stat. is made Perpetual by 31 Geo. 2. c. 42.

For Felony; in breaking down the Head and Mound of a Fish-Pond, whereby the Fish were lost.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Hornsey*, in the County of *Middlesex*, Labourer, being an evil-disposed Person,

152 **Precedents of Indictments, &c.**

son, after the first Day of *June*, in the Year of our Lord One thousand seven hundred and twenty-three, to wit, on the eighth Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Head and Mound of a certain Fish-Pond, in a certain Orchard belonging to *J. D.* Esq; there situate and being; unlawfully, maliciously and feloniously did break down, whereby the Fish in the same Pond then and there being were lost and destroyed, to the great Damage of the said *J. D.* against Form of the Statute in such Case made and provided, to the evil Example of all others in like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. c. 22. If any Person or Persons, from and after the first Day of June, One thousand seven hundred and twenty-three, shall unlawfully and maliciously break down the Head or Mound of any Fish-Pond, whereby the Fish shall be lost or destroyed, He or They shall suffer Death as in Cases of Felony, without Benefit of Clergy. Made perpetual as before mentioned.

For Felony; in maliciously cutting down two Elm Trees, growing for Ornament.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *T. S.* late of the Parish of *Fulham*, in the County of *Middlesex*, Labourer, after the first Day of *June*, in the Year of our Lord One thousand seven hundred and twenty-three, to wit, on the third Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*,

*Britain, &c. with Force and Arms, at the Parish
aforesaid, in the County aforesaid, unlawfully, ma-
liciously and feloniously did cut down and destroy
two Elm Trees, in a certain Avenue to the Dwel-
ling-House of one W. S. there planted and then
growing for Ornament (he the said W. S. then be-
ing the Owner of the said Trees) to the great Da-
mage of the said W. S. against the Form of the
Statute in that Case made and provided, and against
the Peace of our said Lord the King, his Crown
and Dignity.*

*By the Stat. 9 Geo. 1. c. 22. If any Person or
Persons, from and after the first Day of June One
thousand seven hundred and twenty-three, shall mali-
ciously cut down, or otherwise destroy, any Trees planted
in any Avenue, or growing in any Garden, Orchard,
or Plantation for Ornament, Shelter, or Profit, shall
be adjudged guilty of Felony, and shall suffer Death as
in Cases of Felony, without Benefit of Clergy. Made
perpetual as before mentioned.*

*For Felony; in forcibly rescuing a Person from
a Constable, charged with feloniously, &c.
sending a Letter, without a Name subscribed,
demanding Money.*

Middlesex. **T**HE Jurors for our Lord the King
upon their Oath present, That on
the seventh Day of *February*, in the first Year of
the Reign of our Sovereign Lord *George the Third*,
now King of *Great Britain, &c.* one *I. W.* at the
Parish of *St. Andrew, Holbourn*, in the County of
Middlesex, was brought by *J. B.* then being one
of the Constables of the same Parish, before *J. P.*
Esq; then and yet one of the Justices of our said
Lord the King, assigned to keep the Peace in the
County,

County of *Middlesex*, and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the same County, and the said *I. W.* then and there was charged upon the Oath of *S. F.* for feloniously, knowingly, and maliciously sending a certain Letter to *J. F.* demanding Money, and the said *I. W.* was then and there examined before the said *J. P.* the said Justice, touching and concerning the aforesaid Felony, and thereupon the aforesaid *J. P.* the said Justice, then and there in due Form of Law, did make a certain Warrant under his Hand and Seal, bearing Date the said seventh Day of *February*, in the Year of our Lord One thousand seven hundred and sixty-one, directed to the Keeper of *Newgate*, or his Deputy, commanding them to receive into Custody the Body of the said *I. W.* charged upon the Oath of the said *S. F.* with feloniously, knowingly, and maliciously sending a Letter, without any Name subscribed, to *J. F.* demanding Money, and the said Justice by his Warrant aforesaid, did command the said Keeper to safely keep the said *I. W.* in Custody until he the said *I. W.* from thence should be discharged by due Course of Law; which same Warrant afterward, to wit, on the said seventh Day of *February*, in the said first Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County aforesaid, was delivered to the said *J. B.* then and there being one of the Constables of the said Parish, and the said *J. B.* him the said *I. W.* in his Custody, by Virtue of the said Warrant, and for the Cause aforesaid, then and there had; and that *J. W.* late of the Parish aforesaid, in the County aforesaid, Labourer, *J. W.* late of the same, Labourer, and *T. W.* late of the same, Labourer, being ill-designing and disorderly Persons, and not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, but wickedly

wickedly and unlawfully contriving and intending to pervert the due Course of Law, and to cause the said *J. W.* to escape with Impunity, afterwards, to wit, on the said seventh Day of *February*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *J. B.* (then and there being Constable as aforesaid, and then and there lawfully having the said *I. W.* in his Custody, by Virtue of the said Warrant, and for the Cause aforesaid) in the Peace of God, and our said Lord the King, and in due Execution of his said Office, then and there being, did make an Assault; and that the said *J. W.* and *T. W.* the said *I. W.* out of the Custody of the said *J. B.* and against the Will of him the said *J. B.* then and there, with Force and Arms, unlawfully, forcibly, and feloniously did rescue, and put at large to go where he would, to the great Hindrance of Justice, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. cap. 22. If any Person or Persons, from and after the first Day of June, One thousand seven hundred and twenty-three, shall forcibly rescue any Person, being lawfully in Custody of any Officer, or other Person for any of the Offences, in the Statute mentioned, He or They, shall be adjudged guilty of Felony, and shall suffer Death, as in Cases of Felony, without Benefit of Clergy. Made perpetual as before mentioned.

See hereafter Title Escape and Title Prison.

For

For Felony ; in maliciously killing a Gelding.

Essex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. H.* late of the Parish of *Chelmsford*, in the County of *Essex*, Labourer, being an ill-designing and disorderly Person, and of a wicked and malicious Mind, after the first Day of *June*, in the Year of our Lord One thousand seven hundred and twenty-three, to wit, on the seventh Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, with Force and Arms, at the Parish of *Fryerning*, in the County aforesaid, one black Gelding, of the Price of fourteen Pounds, of the Goods and Chattels of one *J. J.* in a certain Field belonging to him the said *J. J.* then and there being, feloniously, unlawfully, wilfully, and maliciously, then and there did kill and destroy, to the great Damage of him the said *J. J.* against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 9 Geo. 1. c. 22. If any Person, after the first Day of June, One thousand seven hundred and twenty-three, shall unlawfully and maliciously kill, maim, or wound any Cattle, he shall suffer Death as in Cases of Felony, without Benefit of Clergy. This Law was made perpetual as before mentioned.

Note, by the Stat. 22. & 23. Car. 2. c. 7. whoever shall, in the Night-time, maliciously, &c. burn any Stacks of Corn, Hay, or Grain, Barns, or other Houses, or Buildings, or Kilns ; or shall in the Night-time, maliciously, &c. kill or destroy Horses, Sheep, or other Cattle, shall be guilty of Felony ; but Liberty is given the Offender to chuse Transportation for seven Years.

For

*For Felony; in maliciously shooting at a Person
in his Dwelling-House.*

Surry. **T**HE Jurors for our Lord the King, upon their Oath present, That *A. N.* late of the Parish of *Croydon*, in the County of *Surry*, Labourer, being an ill-designing and disorderly Person, of a wicked and malicious disposition, and not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, after the first Day of *June*, in the Year of our Lord One thousand seven hundred and twenty-three, to wit, on the eighteenth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, with a certain Gun loaded with Gun-powder, and a leaden Bullet, which he the said *A. N.* in both his Hands, then and there had and held, he the said *A. N.* with the said Gun so being loaded as aforesaid, did then and there wilfully, maliciously, unlawfully, knowingly and feloniously shoot at *A. D. Esq;* (the said *A. D.* then and there being in his own Dwelling-House) against the Form of the Statute in such Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the said Stat. 9 Geo. 1. c. 22. If any Person after the first of June, One thousand seven hundred and twenty-three, shall wilfully and maliciously shoot at any Person, in any Dwelling-House, or other Place, He shall suffer Death as in Cases of Felony, without Benefit of Clergy. This Law made perpetual as before mentioned.

Upon

158 **Precedents of Indictments, &c.**

*Upon this Clause E. A. was convicted at Surry;
Lent Assises, 1724, for shooting at Lord O.*

*For Felony; in sending a Letter, without a
Name subscribed, demanding Money.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That C. D. late of the Parish of St. Clement Danes, in the County of *Middlesex*, Labourer, being an ill-disposed Person, and seeking wicked Gain, and little regarding the Laws and Statutes of this Kingdom, nor the Pains or Penalties therein contained, after the first Day of *June*, in the Year of our Lord One thousand seven hundred and twenty-three, to wit, on the eighteenth Day of *November*, in the first Year of the Reign of our Sovereign Lord, *George* the Third, now King of *Great Britain*, with Force and Arms, at the Parish aforesaid, in the County aforesaid, knowingly, unlawfully, wickedly and feloniously did send a certain Letter in Writing, bearing Date the said eighteenth Day of *November*, without any Name subscribed and signed thereto, directed to one O. M. by the Name of Mr. M. demanding Money, to wit, three Pieces of Gold Coin, of the proper Coin of this Realm, called *Guineas*, to the great Damage of the said O. M. and against the Form of the Statute in that Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

*By the Stat. * 9 Geo. 1. c. 22. it is enacted (inter*

** This Act was occasioned by the Injuries then lately before committed by several Persons near Waltham, who appeared blacked and disguised in Chases, Forests, &c. and is from thence called the Waltham Black Act.*

alia)

alia) That if any Person, from and after the first Day of June, One thousand seven hundred and twenty-three, shall knowingly send any Letter without any Name subscribed thereto, or signed with a fictitious Name, demanding Money, Venison, or other valuable Thing, He shall be adjudged guilty of Felony, and shall suffer Death, as in Cases of Felony, without Benefit of Clergy. This Law continued as before.

For Felony ; in procuring a Person, by Promise of Money, to join in setting Fire to a Stack of Hay.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Clement Danes*, in the County of *Middlesex*, Labourer, being an evil-disposed Person, not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties therein contained, after the first Day of *June*, One thousand seven hundred and twenty-three, to wit, on the eighth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish of *St. John* at *Hackney*, in the County aforesaid, did feloniously and maliciously procure *C. D.* by Promise of Money, to wit, of the Sum of twenty Shillings, to join him the said *A. B.* unlawfully, feloniously, and maliciously, in setting Fire to a certain Stack of Hay, belonging to *E. F.* in the Farm-Yard of him the said *E. F.* situate, lying, and being in the said Parish of *St. John* at *Hackney*, in the County aforesaid, against the Form of the Statute in such Case made and provided, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, to the great Damage of the
said

said *E. F.* and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 1. c. 22. If any Person or Persons shall, by Gift or Promise of Money, or other Reward, procure any of his Majesty's Subjects, to join him or them in any such unlawful Act (as in the Statute before is described) He or They shall be adjudged guilty of Felony, and suffer Death as in Cases of Felony, without Benefit of Clergy. This Law continued as above mentioned.

Speedy Way of bringing Offenders to Justice, by the same Stat. 9 Geo. 1. c. 22. made perpetual, Stat. 31 Geo. 2. c. 42.

AND for the more easy and speedy bringing the Offenders against this Act to Justice, it is enacted, That if any Person or Persons shall be charged with being guilty of any of the Offences (in the Act mentioned) before any Two or more of his Majesty's Justices of the Peace of the County where such Offence or Offences were or shall be committed, by Information of One or more credible Person or Persons upon Oath, by him or them to be subscribed, such Justices, before whom such Information shall be made as aforesaid, shall forthwith certify, under their Hands and Seals, and return such Information to one of the principal Secretaries of State of his Majesty, his Heirs, or Successors, who is hereby required to lay the same, as soon as conveniently may be, before his Majesty, his Heirs or Successors, or their Privy Council, whereupon it shall and may be lawful for his Majesty, his Heirs or Successors, to make his or their Order in his or their Privy Council, thereby requiring and commanding such Offender or Offenders to surrender him or themselves, within the Space of Forty Days, to any of his Majesty's

Majesty's Justices of the Court of King's-Bench, or to any One of his Majesty's Justices of the Peace, to the End that he or they may be forthcoming, to answer the Offence or Offences wherewith he or they shall so stand charged, according to the due Course of Law; which Order shall be printed and published in the next London Gazette, and shall be forthwith transmitted to the Sheriff of the County where the Offence shall be committed, and shall within six Days after the Receipt thereof, be proclaimed by him or his Officers, between the Hours of Ten in the Morning and Two in the Afternoon, in the Market-Places, upon the respective Market-Days of two Market-Towns in the same County, near the Place where such Offence shall have been committed; and a true Copy of such Order shall be affixed upon some publick Place in such Market-Towns; and in Case such Offender or Offenders shall not surrender him or themselves, pursuant to such Order of his Majesty, his Heirs or Successors, to be made in Council, as aforesaid, he or they, so neglecting or refusing to surrender him or themselves, as aforesaid, shall, from the Day appointed for his or their Surrender, as aforesaid, be adjudged, deemed, and taken to be convicted and attainted of Felony, and shall suffer Pains of Death, as in Case of a Person convicted and attainted by Verdict and Judgment of Felony, without Benefit of Clergy; and that it shall be lawful to and for the Court of King's-Bench, or the Justices of Oyer and Terminer, or general Gaol Delivery for the County, where the Offence is sworn in such Information to have been committed, upon producing to them such Order in Council, under the Seal of the said Council, to award Execution against such Offender and Offenders, in such Manner, as if he had been convicted and attainted in the said Court of King's-Bench, or before such Justices of Oyer and Terminer, or general Gaol-Delivery respectively.

M

Every

162 **Precedents of Indictments, &c.**

Every Person, who, after the Time appointed for the Surrender of any Person so charged, shall conceal, abet, or suffer him, knowing him to be so charged and required to surrender, being convicted thereof, shall suffer Death as a Felon, without Benefit of Clergy.

*If any Person shall apprehend, or cause to be committed, any of the above Offenders, and shall be killed or wounded, so as to lose an Eye, or the Use of any Limb, in apprehending such Offender, on Proof thereof at the Quarter Sessions for the County, &c. where the Offence was committed; the Justices shall give a Certificate thereof to the Party so wounded, or the Executors, &c. of the Party killed, which shall intitle them to receive of the Sheriff of the County 50*l.* to be allowed to the Sheriff in passing his Accounts, which 50*l.* the Sheriff is to pay within thirty Days, from the Day in which the Certificate shall be shewn him, on forfeiture of which, to the Person to whom the Certificate is given, for which, as well as for fifty Pounds, such Person may bring his Action upon the Case against the Sheriff, as for Money had and received to his Use.*

Prosecutions to be commenced within three Years, from the Time of the Offence committed, and not after.

No Attainder for any Offences, made Felony by Virtue of this Act, shall work any Corruption of Blood, Loss of Dower, or Forfeiture of Lands or Tenements, Goods or Chattels.

Therefore Clerks of Arraignment should not give that in Charge, for Jurors to inquire what Lands or Tenements, Goods or Chattels, a Prisoner had at the Time such Felonies were committed.

BUGGERY

BUGGERY *and* SODOMY.

An Indictment for Buggery.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. K.* late of in the County of *Middlesex*, Labourer, not having the Fear of God before his Eyes, nor regarding the Order of Nature, but being moved and seduced by the Instigation of the Devil, on the Day of in the Year of the Reign, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *T. L.* a Youth about the Age of seventeen Years, then and there being, feloniously did make an Assault, and then and there feloniously, wickedly, diabolically, and against the Order of Nature, had a venereal Affair with the said *T. L.* and then and there, carnally knew the said *T. L.* and then and there, feloniously, wickedly, diabolically, and against the Order of Nature, did commit and perpetrate that detestable and abominable Crime of Buggery (not to be named among *Christians*) to the great Displeasure of Almighty God, to the great Scandal of all human Kind, against the Form of the Statute in such Case made and provided, and against the Peace, &c.

An Indictment for Sodomy in Ano of a Girl.

Kent to wit. **T**HE Jurors for our Lord the King upon their Oath present, That *R. W.* late of the Parish of *Maidstone*, in the County of *Kent*, Labourer, not having God before his Eyes, nor regarding the Order of Nature, but moved and seduced by diabolical Instigation, on

164 **Precedents of Indictments, &c.**

the Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, and at the Parish aforesaid, in the County aforesaid, in a certain Room in the Workhouse then situate in the Parish aforesaid, in and upon one *J. M.* Spinster, then a Virgin, of the Age of eleven Years, in the Peace of God and our said Lord the King, then and there being, did violently and feloniously make an Assault, and then and there the said *J. M.* in the Room aforesaid, did wickedly, diabolically, feloniously, and against the Order of Nature, carnally know, and a venereal Affair, in the Fundament of the said *J. M.* then and there had, and her the said *J. M.* then and there wickedly, diabolically, feloniously, and against the Order of Nature, in the said Fundament of her the said *J. M.* then and there, did carnally know, and that sodomitical, detestable, and abominable Sin called Buggery (not to be named among *Christians*) then and there with the said *J. M.* wickedly, diabolically, feloniously, and against the Order of Nature, committed and perpetrated; to the great Displeasure of Almighty God, and Disgrace of all Human Kind, against the Peace of our said Lord the King, his Crown and Dignity, &c. and also against the Form of the Statute in such Case made and provided.

See the Case at large Fortescue's Rep. 91. also see Co. Ent. 351, 352. Swmb. of Wills 2. §. 18.

Sodomy or Buggery, is the carnal Knowledge of the Body of a Man or Beast, against the Order of Nature; it may be committed by Man with Man (which is the most common) or by a Man with a Woman, or by Man or Woman with a Beast. It was Felony by the ancient common Law, and punished according to some Authors, with

3 Inst. 58.

H. P. C. 177.

Dalt. 382.

BURGLARY and HOUSE-BREAKING. 165

with burning; according to others, with burying alive; but at this Day, by Force of the Stat. 25 H. 8. c. 6. & 5 Eliz. c. 17. it is punished in the same Manner as other Felonies, which are excluded Clergy. Not only he who doth the Act, is a Principal, but he who is present, aiding and abetting him. It is Felony in the Agent and Patient consenting; unless the Person, on whom committed, be within the Age of Discretion, then it is Felony in the Agent only. In the Indictment there must be the Words *Rem habuit re cream et carnaliter cognovit*; and consequently some Kind of Penetration and Emission is to be proved; but any the least Degree is sufficient, an Emission is *prima facie* Evidence of Penetration 12 Co. 36, 37. 1 Hale's H. P. C. 628. and Lord Audley's Case in the State Trials.

BURGLARY and HOUSE-BREAKING.

An Indictment for Burglary.

London. **T**HE Jurors for our Lord the King upon their Oath present, That *A. L.* late of the Parish of *St. Dunstan in the West, London*, Labourer, on the fourteenth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* about the Hour of Ten in the Night of the same Day *, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling-House of *J. L.* there situate, feloniously and burglariously did break and enter, and one Silver Tankard, of the Value of five Pounds, of the Goods and Chattels of the said *J. L.* in the same Dwelling-House then

* Note, You must always call it the Night of the next preceding Day, though it be after twelve o'Clock.

and there, feloniously and burglariously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

N. B. All Burglaries are Felonies, without Benefit of Clergy, Stat. 18 El. c. 7. Captor's Reward on Conviction (beside that given by 10 W 3. cap. 2, 3.) forty Pounds, by 5 Ann. cap. 6. Vide Certificate to intitle Apprehenders of a House breaker to forty Pounds for Apprehension, &c.

A Burglar is he, who in the Night-time breaketh and entereth into a Mansion-House of another, with Intent to kill some reasonable Creature, or to commit some other Felony within the same, whether his felonious Intent be executed or not. Coke, P. C. cap. 14. p. 63. And accordingly the Indictment runs as above, or if no Theft were actually committed, then say, with an Intent, the Goods and Chattels of the said J. L. in the said Dwelling-house then and there being, then and there feloniously and burglariously to steal, take, and carry away; or with an Intent, him the said J. L. then and there being, feloniously to kill and murder, against the Peace, &c.

1. What is said to be Night.

After Sun-set and before Sun-rising it is Night. Dalt. c. 151. but it seems to be Day as long as the Countenance of a Person may be discovered.

1 Hawk. P. C. 101, 102.

2. What a Breaking or Entering.

There must be both Breaking and Entering; and according to 1 Hale's H. P. C. 551. both must be in the Night-time.

Entering a House, the Door being open, is not sufficient, for there must be an actual Breaking; therefore if the Door or Window be open, and the Thief draw out the Goods, it is no Burglary: but if the Thief break the Window, draw a Latch, unlock a Door, or break a Hole in the Wall, these are Breakings.

As

BURGLARY and HOUSE-BREAKING. 167

As there must be a Breaking, so there must be an Entering; setting a Foot over the Threshold; putting the Hand, a Hook or Pistol within a Window or Door; turning the Key where the Door is locked on the Inside, is an Entry.

In some Cases Burglary may be committed without an actual Breaking, viz.

Divers come to commit a Burglary, one does it, the Rest watch at the End of a Street or Lane, it is Burglary in all; going down a Chimney to rob, is Burglary. But see 1. H. P. C. 552.

A Thief gets into a House in the Day time; the Doors being open, and lies there till Night, then steals and goes away, it is no Burglary; but if he breaks open a Door to go out, it is Burglary.

The Servant opens a Window to let in a Thief, who comes in and steals; it is Burglary in the Stranger, but only Larceny in the Servant.

If a Thief enter into a House through a Hole made there before, it is no Burglary.

Burglary may be committed in a Mansion-House, tho' all Persons be out. And so it is, if a Man hath two Houses, and sometimes lies in the one, and sometimes in the other.

A Chamber where a Person usually lodges, in an Inn of Court is a Mansion-House.

Breaking a Church is Burglary. 1 Hawk P. C. 103.

If a Man be indicted for Burglary, for that he feloniously and burglariously did take the Goods, &c. out of a Dwelling-House, he may be acquitted of the Burglary, and found guilty of simple Felony, if the Proof be not sufficient as to the Burglary. See more of Burglaries in Co. P. C. Hale P. C. & Dalt. Just. 341. Strange's Rep. 481. 881.

An Indictment for breaking a House in the Day-time (no Person being therein) and stealing Goods of above the Value of five Shillings.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. K.* late of *Ec.* on the Day of in the Year of the Reign, *Ec.* about the Hour of Eleven in the Forenoon of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling-House of *J. E.* there situate, feloniously did break and enter, (no Person in the same Dwelling-House then and there being) and two Pewter Dishes of the Value of seven Shillings (*here mention all the Goods and Money stolen*) of the Goods and Chattels of the said *J. E.* in the same Dwelling-House then and there being found, feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 39 Eliz. c. 15. this Offence is Felony without Benefit of Clergy, and the same Reward to Captors as in Burglary, by Stat. 10 W. 3. c. 23. 5 Ann. c. 31.

CHURCH-YARD.

For Striking a Person with a Weapon in a Church-Yard.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *H. B.* late of the Parish of *St. Pancras*, in the County of *Middlesex*, Gent. on the fourth Day of *April*, in the first Year of the Reign of our Sovereign

CHURCH-YARD. 169

vereign Lord George the Third, King of Great Britain, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in a certain Church-Yard belonging to the same Parish, and there situate, maliciously did strike one *M. P.* Spinner, with a certain Weapon made of Iron and Steel, called a Hanger, which he the said *H. B.* then and there had and held in his right Hand, against the Form of the Statute, in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity:

With an Intent to strike.

If any Weapon is drawn with an Intent to strike another, then say, With his right Hand did draw a certain Weapon called a Hanger, to the Intent to strike one M. P. with the same Weapon, against the Form of the Stat. &c. and against, &c. as above. But it seems to be the better Way, that if a Person draws a Weapon to the Intent to strike, and actually strikes, to lay the Indictment two Ways. Thus; With his right Hand did draw a certain Weapon, &c. against the Form of the Statute, &c. and against the Peace, &c. And the Jurors aforesaid, upon the Oath aforesaid, do further present, That the said H. B. on the said fourth Day of April, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in a certain Church-Yard, belonging to the same Parish, and there situate, maliciously did strike, &c. as above.

By the Stat. 5 & 6 Ed. 6. c. 4. it is enacted, That if any Person shall maliciously strike another with any Weapon, in any Church or Church-Yard, or shall draw any Weapon in any Church or Church-Yard to the Intent to strike another with the same Weapon, that then every

170 *Precedents of Indictments, &c.*

every Person so offending, and thereof being convicted by Verdict of twelve Men, or by his own Confession, or by two lawful Witnesses, before the Justices of Assise, Justices of Oyer and Terminer, or Justices of Peace in their Sessions, by Force of this Act, shall be adjudged, by the same Justices, before whom such Person shall be convicted, to have one of his Ears cut off: And if the Person or Persons so offending have none Ears, whereby he or they should receive such Punishment as is before declared, that then he or they to be marked and burned in the Cheek with an hot Iron, having the Letter F, whereby he or they may be known to be Fray-makers and Fighters, and besides, that every such Person to be and stand ipso facto excommunicated, and be excluded, from the Fellowship and Company of Christ's Congregation.

He who strikes another in a Church, Cro. Ja. 367. &c. can no way excuse himself, by shewing that the other assaulted him.

For digging up, and carrying away a Dead Body out of a Church-Yard.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That A. C. late of the Parish of St. Paul, Shadwell, in the County of *Middlesex*, Surgeon, on the sixth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* about the Hour of Two in the Night of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Church-Yard belonging to the Parish-Church of the same Parish, unlawfully did enter, and a Dead Body of a certain Woman, to the Jurors aforesaid yet unknown, then lately before laid in a Coffin, and buried in the same Church-Yard, did then and there unlawfully dig up, take out of the said Coffin,

fin, and carry away, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

COINING.

An Indictment of High Treason for Coining Shillings.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *E. W.* late of the Parish of *St. Margaret, Westminster*, in the County of *Middlesex*, Labourer, and *M. W.* late of the same, Labourer, not having the Fear of God before their Eyes, nor weighing the Duty of their Allegiance, but being moved and seduced by the Instigation of the Devil, and contriving and intending our said Lord the King, and all his People, craftily, falsely, deceitfully, feloniously, and traiterously to deceive and defraud, on the second Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, twenty Pieces of false, feigned and counterfeit Money and Coin, of Pewter, Lead, Tin, and other mixt Metals, to the Likeness and Similitude of the Good, legal and current Money, and Silver Coin of our said Lord the King of this Realm, called Shillings, then and there falsely, deceitfully, feloniously, and traiterously did forge, counterfeit, and coin, against the Duty of their Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute, in that Case made and provided.

It

*It is declared by the Statute of 25 Ed. 3. Stat. 5. cap. 9. That if a Man counterfeit the King's Great Privy Seal, or his Money of England, and if a Man bring false Money into this Realm, counterfeit to the Money of England, as the Money called * Lushburgh, or other like Money of England, knowing the Money to be false, to Merchandize, or make Payment in Deceit of our said Lord the King and his People, he ought to be judged guilty of Treason.*

By the Stat. 1 Mar. Stat. 2. cap. 6. If any Person or Persons falsly forge and counterfeit any such Kind of Coin of Gold or Silver, as is not the proper Coin of this Realm, and is and shall be current within this Realm by the Consent of the Queen, her Heirs or Successors; or if any Person or Persons do falsly forge or counterfeit the Queen's Sign Manual, Privy Signet, or Privy Seal; that then every such Offence shall be deemed, and judged High Treason, and the Offenders therein, their Counsellors, Procurors, Aiders, and Abetors, being convict, according to the Laws, of any of the said Offences, shall be likewise deemed and judged Traitors against the Queen, her Heirs and Successors, and the Realm, and shall suffer and have such Pains of Death, Forfeiture of Lands, Goods and Chattels, and lose the Privilege of all † Sanctuary, as in Cases of High Treason is used and ordained.

* Lushburgh was a base Coin, used in the Days of King Ed. 3. coined beyond Sea to the Likeness of English Money, and brought in, to deceive the King and his Subjects.

† Sanctuary is a privileged Place by the Prince, for the Safe-guard of Mens Lives, who are Offenders, being founded on the Law of Mercy, and upon the great Reverence, Honour and Devotion, which the Prince bears to the Place whereunto he grants such Privilege; which was heretofore so great, that the Princes have granted the same in Cases of Treason committed against themselves, Murder, Rape, or other Crime whatsoever. See Stamf. Pl. of the Crown, l. 2. c. 38. Cow. Interp. and Les Termes de la Ley.

By

By the Stat. 1 and 2 Ph. and M. cap. 11. it is enacted, That if any Person or Persons, shall bring, from Parts beyond the Sea, into this Realm, or into any of the Dominions of the same, any such false and counterfeit Coin of Money, being current within this Realm, knowing the same Coin or Money to be false and Counterfeit, to the Intent to utter, and making Payment with the same within this Realm, or any the Dominions of the same, by Merchandising or otherwise; that all and every such Persons so offending as aforesaid, their Counsellors, Procurers, Aiders, or Abeters, in that Behalf shall be deemed and adjudged to be Offenders in High Treason, and shall suffer, after lawful Conviction or Attainder thereof, such Pains of Death, Loss and Forfeiture of Land, Goods, and Chattels, as other Offenders shall do, in Cases of High Treason.

* And further, That all and every Person or Persons, that shall at any Time be accused or impeached of any Offences, contained and provided for in this Statute, or of any other Offence or Offences, concerning the impairing, counterfeiting, or forging of any Coin, current within this Realm, shall and may be indicted, arraigned, tried, convicted or attainted, by such like Evidence, and in such Manner and Form, as hath been used and accustomed within this Realm, at any Time before the first Year of the Reign of our late Sovereign Lord King Edward the Sixth, any Statute, Custom, Law, or Usage to the contrary thereof, in any wise notwithstanding.

* Note, To clip, wash, round, or file, is Treason, Stat. 3 H. 5. c. 6. 5 Eliz. c. 11. or impair the Co.n, Stat. 25 Ed. 3. Stat. 5. c. 13. 18 El. c. 1. Treason.

*An Indictment of High Treason for having Goods
for Coining in their Custody.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *E. W.* late of the Parish of *St. Giles* in the *Fields*, in the County of *Middlesex*, Labourer, and *J. W.* late of the same, Labourer, not being Persons employed, nor any one of them a Person employed in or for the Mint or Mints of our said Lord the King, in the Tower of *London*, or elsewhere, and for the Use and Service of the said Mints only, not being Persons lawfully authorized, nor any one of them lawfully authorized by the Lord High Treasurer of *Great Britain*, or Lords Commissioners of the Treasury of our said Lord the King, and not having the Fear of God before their Eyes, but being moved and seduced by the Instigation of the Devil, after the fifteenth Day of *May*, in the Year of our Lord One thousand six hundred and ninety-seven, to wit, the first Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Pair of Moulds made of Chalk, upon which, then and there, were made and impressed, the Figure, Resemblance and Similitude of the Sides of the lawful Silver Coin of this Kingdom, called Sixpences, (each of which said Moulds would then make and impress the Figure, Resemblance, and Similitude of one of the Sides of the lawful Silver Coin of this Kingdom, called Sixpences) without any lawful Authority or sufficient Excuse for that Purpose, knowingly and traiterously had in the Custody and Possession of them the said *E. W.* and *J. W.* in the Dwelling-House of *R. W.* situate at the Parish aforesaid, in the County of
Middlesex

Middlesex afore said, against the Duty of their Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

For biding and concealing Coining-Tools.

As above, down to knowingly and traiterously, in the Dwelling-House of R. W. situate at the Parish afore said, in the County of Middlesex afore said, did hide and conceal, against the Duty of their Allegiance, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

By the Stat. 8 & 9 W. 3. c. 25. it is enacted, That from and after the fifteenth Day of May, One thousand seven hundred ninety-seven, no Smith, Engraver, Founder, or Person or Persons whatsoever (other than except the Persons employed, or to be employed in and for his his Majesty's Mint or Mints in the Tower of London, or elsewhere, and for Use and Service of the said Mints only, or Persons lawfully authorised by the Lords Commissioners of the Treasury, or Lord High Treasurer of England, for the Time being) shall knowingly make or mend, or begin to make or mend, or shall assist in making or mending of any Puncheon, Counter-puncheon, Matrix, Stamp, Dye, Pattern, or Mould of Steel, Iron, Silver, or other Metal or Metals, or of Sand, or fine Founders Earth, or Sand, or any other Materials whatsoever, in and upon which there shall be, or be made or impressed, or which will make or impress the Figure, Stamp, Resemblance, or Similitude of both or either of the Sides or Flats of any Gold or Silver Coin current within this Kingdom: Nor shall knowingly make or mend, or begin or proceed to make
or

or mend, or assist in making or mending of any Edger or Edging-tool, Instrument, or Engine, not in common Use in any Trade, but contrived for making of Money round the Edges with Letters, Grainings, or other Marks or Figures resembling those on the edges of Money coined in his Majesty's Mint, nor any Press for Coinage, nor any Cutting-engine, for cutting round Blanks by Force of a Screw, out of flated Bars of Gold, Silver or other Metal; nor shall knowingly buy or sell, hide or conceal, or without lawful Authority or sufficient Excuse for that Purpose, knowingly have in his, her or their Houses, Custody or Possession, any such Puncheon, Counter-puncheon, Matrix, Stamp, Dye, Edger, Cutting-engine, or other Tool, or Instrument before mentioned; and if any Smith, Engraver, Founder, or other Person or Persons whatsoever (other than, and excepted as aforesaid) shall offend in any of the Matters or Things aforesaid, then all and every such Offender and Offenders, their Counsellors, Procurers, Aiders, and Abettors shall be, and is, and are hereby adjudged to be guilty of High Treason, and being of the said Offences, or any of them, convicted or attainted, according to the Order and Course of the Laws of this Realm, shall suffer Death, as in Case of High Treason.

Persons conveying out of the Mint any Puncheon, &c. and concealing the same, to be guilty of High Treason.

Like Penalty on Persons marking the Edging of counterfeit Coin.

Or colouring, &c. any Coin resembling the current Coin.

Puncheon, Dye, &c. found in the Possession of any Person not employed in the Mints, may be seized, and produced in Evidence.

Counterfeit Money produced in Evidence, to be afterwards cut to Pieces.

Persons.

Persons blanching Copper for Sale, or mixing blanched Copper with Silver, &c. or taking or paying counterfeit milled Money, &c. are guilty of Felony, and shall suffer Death.

N. B. This Act expired at the End of the then next Session of Parliament: But by the Stat. 7 Ann. c. 25. the Stat. 8 & 9 W. 3. c. 26. is made perpetual, and the Makers and Menders of Tools are to be prosecuted within six Months.

By the Stat. 15 & 16 Geo. 2. c. 28. it is enacted, That if any Person shall wash, gild, or colour any lawful Silver Coin called a Shilling or a Sixpence, or any counterfeit or false Shilling or Sixpence, or add to or alter the Impression, or any Part of the Impression, of either Side of any such lawful or counterfeit Shilling or Sixpence, with Intent to make such Shilling resemble or look like, or pass for a Piece of lawful Gold Coin called a Guinea, or with Intent to make such Sixpence resemble or look like, or pass for a Piece of lawful Gold Coin called a Half guinea; or shall file, or any Ways alter, wash, or colour any of the Brass Monies called Half-pence or Farthings, or add to or alter the Impression of either Side of a Half-penny or Farthing, with Intent to make a Half-penny resemble or look like, or pass for a lawful Shilling, or with Intent to make a Farthing resemble or look like, or pass for a lawful Sixpence, the Person and Persons so offending, in any of the Matters aforesaid, their Counsellors, Aiders, Abettors, and Procurers, shall be, and is, and are hereby adjudged to be guilty of High Treason.

And if any Person shall utter or tender in Payment any false or counterfeit Money, knowing the same to be false or counterfeit, to any Person or Persons, and shall be thereof convicted, such Person so offending shall suffer six Months Imprisonment, and find Sureties for

N

his

his good Behaviour for six Months more, to be computed from the End of the first six Months; and if the same Person shall afterwards be convicted a second Time of the like Offence of uttering or tendering in Payment any false or counterfeit Money, knowing the same to be so, such Person shall, for such second Offence, suffer two Years Imprisonment, and find Sureties for his good Behaviour for two Years more, to be computed from the End of the said first two Years; and if the same Person shall afterwards offend a third Time in altering or tendering in Payment any false or counterfeit Money, knowing the same to be so, and shall be convicted of such third Offence, he shall be, and is hereby adjudged to be guilty of Felony, without Benefit of Clergy.

And if any Person shall alter or tender in Payment any false or counterfeit Money, knowing the same to be false or counterfeit, to any Person or Persons, and shall either the same Day, or within the Space of ten Days then next, utter or tender in Payment any more, or alter false or counterfeit Money, knowing the same to be false or counterfeit, to the same Person or Persons, or to any other Person or Persons, or shall at the same Time of such uttering or tendering have about him or in his Custody one or more Piece or Pieces of counterfeit Money, besides what was so uttered or tendered, then such Persons so uttering or tendering the same, shall be deemed and taken to be a common utterer of false Money, and being thereof convicted, shall suffer a Year's Imprisonment, and shall find Sureties for his good Behaviour for two Years more, to be computed from the end of the said Year; and if any Person having been once so convicted as a common Utterer of false Money, shall afterwards again utter or tender in Payment any false or counterfeit Money, to any Person or Persons, knowing the same to be false or counterfeit, then such Person being thereof convicted, shall,
for

for such second Offence be, and is hereby adjudged to be guilty of Felony, without Benefit of Clergy.

And that the Person and Persons convicted of any of the Treasons and Felonies respectively herein before mentioned, shall suffer Death, as in Case of High Treason and Felony respectively; but the Blood of the Heirs of such Offender shall not be thereby corrupted, nor shall his Wife thereby lose her Dower.

And that the Person and Persons that shall be guilty of any of the Treasons, Felonies or Crimes aforesaid, shall be indicted, arraigned, tried, and convicted by such like Evidence, and in such Manner as is now used and allowed against any Offenders for counterfeiting the lawful Coin, provided that there shall be no Prosecutions for any of the Offences made Treason or Felony by this Act, unless such Prosecution be commenced within six Months next after such Offence shall be committed.

And whereas the coining or counterfeiting of the Copper Money of this Kingdom is only a Misdemeanor, and the Punishment often very small; if any Person shall make, coin, or counterfeit any Brass or Copper Money, commonly called a Half-penny or a Farthing, such Person offending therein, and his, her, and their Aiders, Abettors, and Procurers being thereof convicted, shall suffer two Years Imprisonment and find Sureties for his or her good Behaviour for two Years more, to be computed from the End of the said first two Years.

Whoever shall apprehend any Person or Persons who have committed any of the Offences hereby made High Treason or Felony, or who shall have made or counterfeited any of the Copper Money aforesaid, and shall prosecute such Offenders to Conviction, shall have and receive of the Sheriff of the County, &c. for every such Offender so convicted of any of the said Treasons or Felonies, the Sum of forty Pounds, and for every such Offender so convicted of counterfeiting any of the said Copper Money, the Sum of ten Pounds

180 **Precedents of Indictments, &c.**

within one Month after Conviction, or tendering a Certificate under the Hand of the Judge, &c.

Whoever being out of Prison, shall commit any of the Offences aforesaid, and shall afterwards discover two or more Persons who shall have committed any of the said Offences, so as such two or more Persons shall be thereof convicted, such Discoverers shall have his Majesty's Pardon.

If any Person shall be convicted of uttering or tendering any false or counterfeit Money as aforesaid, and shall afterwards be guilty of the like Offence in any other County or City, the Clerk of the Assize, or Clerk of the Peace for the County or City where such first Conviction was so had, shall at the request of the Prosecutor, or any other on his Majesty's Behalf, certify the same by a Transcript in few Words, containing the Effect and Tenor of such Conviction; for which Transcript two Shillings and Sixpence, and no more, shall be paid, and such Certificate being produced in Court, shall be sufficient Proof of such former Conviction.

COMPOUNDING FELONY.

For Compounding Felony.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the sixteenth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* one *W. D.* at the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, in his proper Person, came before *J. P. Esq;* then and yet being one of the Justices of our said Lord the King, assigned to keep the Peace in the said County of *Middlesex*, and also to hear and determine diverse Felonies, Trespasses and other
Misdeeds

COMPOUNDING FELONY. 181

Misdeeds committed in the same County, and then and there, upon his Oath aforesaid, did charge and accuse one *M.* the Wife of *P. J.* with feloniously stealing, taking and carrying away one Silver Spoon and two Silk Handkerchiefs, of the Goods and Chattels of the said *W. D.* upon which the said *J. P.* then and there issued out his Warrant under his Hand and Seal, made in due Form of Law, for the apprehending and taking the said *M.* to answer, and be examined of, and concerning the Felony aforesaid, on her as aforesaid charged: And that afterwards, on the said sixteenth Day of *December*, in the Year aforesaid, the said *M.* at the Parish aforesaid, in the County aforesaid, for the said Felony, and by Virtue of the said Warrant, was taken and arrested, and then and there was brought before the said *J. P.* the Justice aforesaid, and then and there, before the same Justice, of and concerning the same Felony was examined: Upon which the said *J. P.* the Justice aforesaid, then and there did make a certain Warrant under his Hand and Seal, in due Form of Law, directed to the Keeper of *Newgate*, or his Deputy, thereby commanding the aforesaid Keeper, or his Deputy, to receive into Custody the Body of the said *M. J.* so charged with Felony as aforesaid, and her in Custody safely to keep, until she should be discharged by due Course of Law. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *W. D.* late of the Parish of *St. George the Martyr*, in the County aforesaid, Tallow-chandler, and *J. D.* late of the same, Broker, well knowing the Premises, and each of them well knowing the same, but contriving and intending, unlawfully and unjustly, to pervert the due Course of Law in this Behalf, and to cause and procure the said *M. J.* for the Felony aforesaid, to escape with Impunity, afterwards, to wit, on the same Day and Year, at the Parish of

182 **Precedents of Indictments, &c.**

St. Andrew, Holbourn, aforesaid, in the County aforesaid, unlawfully and for wicked Gain Sake, did take upon themselves to compound the said Felony, on the Behalf of the said *M. J.* and then and there did exact, receive and have, of the said *P. J.* the Husband of the said *M.* twenty-six Shillings in Monies, numbered for, and as a Reward for compounding the said Felony, and desisting from all further Prosecution against the said *M. J.* for the Felony aforesaid, to the great Hindrance of Justice, to the evil Example of all others in the like Case offending, in Contempt of our said Lord the King and his Laws, and against the Peace of our said Lord the King, his Crown and Dignity.

C O N S P I R A C Y.

For conspiring That one Man should rob the other, with an Intent to charge the Hundred.

Warwickshire. **T**HE Jurors for our Lord the King upon their Oath present, That *J. B.* late of, &c. and *R. B.* late of &c. devising and intending unjustly to oppress and agrieve divers Subjects of our said Lord the King, within this Realm, and wrongfully to charge them with the Payment of great Sums of Money, to the Amount of two Hundred and thirty Pounds, and upwards, on the thirty-first Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish of——in the County of *Warwick*, did conspire, combine and agree together, that he the said *J. B.* should, in or near the King's Highway there, take from the Person of the said *R. B.* the Sum of two hundred and thirty Pounds
and

and a Silver Watch, and that the said *R. B.* should make Oath, before some Justice of the Peace, of the said pretended Robbery; and the said *R. B.* in Pursuance of the said Conspiracy, Combination and Agreement, did afterwards, to wit, on the same Day and Year above mentioned, at *W.* in the County of *Warwick* aforesaid, make, and give Information in Writing, upon Oath, before *J. D.* Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the said County of *Warwick*, and also to hear and determine diverse Felonies, Trespasses, and other Misdemeanors committed within the same County; That about ten of the Clock in the Forenoon of that Day, he was assaulted, in the Highway leading from *C.* in the County of *Warwick*, to *L.* in the County of *Stafford*, near a Place called the *Green-Man*, in the Parish of *W.* in the Hundred of *H.* in the said County of *Warwick*, by a tall, lusty Man, wearing a dark brown Wig and a brown Coat, mounted on a black Horse or Mare, about fifteen Hands high, and was by him robbed, in the Highway aforesaid, of the Sum of two hundred and thirty Pounds and a Silver Watch, and that he did not, at the Time of the said Robbery, nor then, know the Person who committed the said Fact, with the fraudulent and wicked Intent and Purpose to charge the Inhabitants of the said Hundred with the Payment of the said Sum of two hundred and thirty Pounds, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. B.* and *R. B.* devising and intending unjustly to oppress and aggrieve diverse Subjects of our said Lord the King, within this Realm, and wrongfully to charge them with the Payment of

The Information.

great Sums of Money, to the Amount of two hundred and thirty Pounds, and upwards, on the said thirty-first Day of *July*, in the Year aforesaid, at the Parish of *W.* aforesaid, in the County of *Warwick* aforesaid, did conspire, combine and agree together, that he the said *J. B.* should in or near the King's Highway there, take from the Person of the said *R. B.* the Sum of two hundred and thirty Pounds, and a Silver Watch, and the said *J. B.* in Pursuance of the said Conspiracy, Combination and Agreement, afterwards, to wit, the same Day and Year, at the Parish of *W.* aforesaid, in the Hundred of *H.* in the said County of *Warwick*, did take from the Person of the said *R. B.* the Sum of two hundred and thirty Pounds, and a Silver Watch, with the fraudulent and wicked Intent and Purpose to charge the Inhabitants of the said Hundred with the Payment of the said Sum of two hundred and thirty Pounds, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *R. B.* on the said thirty-first Day of *July*, in the Year aforesaid, at the said Parish of *W.* within the said Hundred of *H.* in the said County of *Warwick*, fraudulently, wickedly and deceitfully did cause and procure the said *J. B.* to take from the Person of him the said *R. B.* the Sum of two hundred and thirty Pounds, and a Silver Watch, with the fraudulent and wicked Intent and Purpose to charge the Inhabitants of the said Hundred with the Payment of the said Sum of two hundred and thirty Pound, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For Conspiring to charge a Man with a Rape, and preferring an Indictment against him for the same, (Bill not found) with an Intent to obtain Money from him.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. P.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Labourer, *E.* his Wife, and *J. H.* late of the same, Labourer, being Persons of evil Name and Fame, and of dishonest Conversation, and wickedly devising, and intending unjustly to deprive one *H. S.* of his good Name, Credit, and Reputation, and also to subject the said *H.* without any just Cause, to the Loss of his Life and Forfeiture of his Goods, on the twentieth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, among themselves did conspire, combine and agree falsely to charge and accuse the said *H.* That he the said *H.* had then lately before feloniously ravished, and carnally known the said *E.* against her Will and Consent. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. P.* *E.* his Wife, and *J. H.* afterwards, to wit, on the said twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, according to the Conspiracy, Combination, and Agreement between them as aforesaid had, falsely, unlawfully, and for wicked Gain Sake, in the Presence and Hearing of diverse Persons, did charge and accuse the said *H. S.* that he the said *H.* had then lately before feloniously ravished, and carnally known the said *E.* And the Jurors aforesaid, upon their Oath aforesaid,

said, do further present, That in further Prosecution of the said wicked Devices and Intentions of them the said *J. P. E.* his Wife, and *J. H.* and according to the Conspiracy, Combination and Agreement between them as aforesaid had, the said *E.* afterwards, to wit, on the said twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did upon her Oath falsely charge and accuse the said *H. S.* before *T. D.* Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespasses and other Misdeeds committed in the same County, That he the said *H. S.* then lately before had carnal Knowledge of the Body of her the said *E.* against her Consent. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That in further Prosecution of the said wicked Devices and Intentions of them the said *J. P. E.* his Wife, and *J. H.* and according to the Conspiracy, Combination, and Agreement between them as aforesaid had, the said *E.* by the Name of *E.* the Wife of *J. P.* afterwards, to wit, at the General Quarter Session of the Peace of our said Lord the King, holden at *Hicks's Hall* in *St. John-Street*, in and for the County of *Middlesex* aforesaid, on *Monday* the fourth Day of *July*, in the Year aforesaid, before *T. L.* Esq; Sir *J. G.* Knight, *J. M. A. O.* Esqrs. and other their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, did exhibit a certain Bill of Indictment against the said *H. S.* by the Name and Addition of *H. S.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Yeoman, to *J. S.* Gent. [*Here*

go on with all the Names of the Grand Jurymen, to whom the Bill was exhibited] good and lawful Men of the said County of *Middlesex*, then and there sworn, and charged to inquire for our said Lord the King, for the Body of the said County, which said Bill of Indictment was, by the said Jurors above named, then and there returned in the Court aforesaid, before the said Justices of our said Lord the King above named, and others their Fellows aforesaid, thus indorsed (*Not found*) which said Bill followeth, to wit, [*Here recite the Indictment exhibited Verbatim*] with Intent to obtain and acquire unjustly to them the said J. P. E. his Wife, and J. H. of and from the said H. S. diverse Sums of Money for compounding the said pretended Felony and Rape, so falsely charged on him as aforesaid, to the great Damage, Infamy, and Disgrace of the said H. S. to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For conspiring to charge a Man with receiving stolen Goods, and thereby obtaining Money for compounding the same, and causing him to lay out a Sum of Money, for the Entertainment of the Conspirators at one of their Houses.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. G.* late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Gent. and *W. B.* late of the same, Coffee-man, being Persons of evil Name and Fame, and dishonest Conversation, and wickedly devising, and intending one *A. L.* not only of his Credit and good Reputation unjustly to deprive, but also to obtain and acquire to themselves of and from the said

188 **Precedents of Indictments, &c.**

faid *A. L.* diverse great Sums of Money, on the twentieth Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, did amongst themselves conspire, combine, and agree falsely to charge and accuse the said *A. L.* that he the said *A. L.* had then lately before received stolen Goods. And the Jurors aforesaid, on their Oath aforesaid, do further present, That the said *W. G.* and *W. B.* afterwards, to wit, on the said twentieth Day of *August*, in the Year aforesaid, according to the said Conspiracy, Combination, and Agreement between themselves before had, as is aforesaid, falsely, wickedly, and for the Sake of unjust Lucre and Gain, did, in the Presence and Hearing of diverse Persons, charge and accuse the said *A. L.* that he the said *A. L.* had bought Hats that were stolen, and they the said *W. G.* and *W. B.* did then and there falsely pretend and affirm to the said *A. L.* that a Bill of Indictment was then found, at the General Session of the Peace, holden at *Hicks's Hall*, in *St. John Street*, in and for the said County of *Middlesex*, on the eighteenth Day of *August*, then last before, against the said *A. L.* for receiving stolen Goods; whereas in Truth and in Fact, no Bill of Indictment was then found against the said *A. L.* for the said Offence, so falsely charged on him, or for any such like Crime. And whereas in Truth and in Fact the said *A. L.* was never guilty of the said Offence, or any other Offence of that Kind. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That by the said false Accusations, and by diverse Threats and Menaces, that he the said *A. L.* should be transported into Parts beyond the Seas for the said pretended Offence; they the said *W. G.* and *W. B.* did afterwards, to
wit,

wit, on the said twentieth Day of *August*, in the Year aforesaid, demand, receive, and take of the said *A. L.* one Piece of Gold Coin of the proper Coin of this Realm, called a Guinea, for and as a Composition and Agreement of the said pretended Offence, and to discharge the said *A. L.* from all further Prosecution for the same; and they the said *W. G.* and *W. B.* did also then and there, by the false and wicked Pretences aforesaid, unlawfully cause and procure the said *A. L.* to expend and lay out twenty-three Shillings of lawful Money of *Great Britain*, at the Dwelling-House of the said *W. B.* in Wine and other Liquors, in the Company and for the Entertainment of them the said *W. G.* and *W. B.* to the great Damage of the said *A. L.* and against the Peace of our said Lord the King, his Crown and Dignity.

For a Conspiracy to charge a Man with committing Sodomy with one of the Conspirators, and thereby obtaining Money, under Pretence of concealing the same, and desisting from all Prosecutions.

Middlesex. **T**HE Jurors of our Lord the King upon their Oath present, That *H. P.* late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Labourer, *C. W.* late of the same, Labourer, and *S. T.* late of the same, Widow, being Persons of ill Name and Fame, and dishonest Conversation, and contriving and intending one *G. G.* not only of his good Name, Credit and Reputation wholly to deprive, but also to obtain and get to themselves of and from the said *G. G.* diverse Sums of Money, on the twentieth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*,

tain, &c. at the said Parish of *St. James, Clerkenwell*, in the said County of *Middlesex*, among themselves did conspire, combine, and agree falsely to charge and accuse the said *G.* that he the said *G.* then lately before had committed the Crime of Sodomy, commonly called Buggery, with him the said *H. P.* And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *H. P. C. W.* and *S. T.* afterwards, to wit, on the said twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, according to the Conspiracy, Combination, and Agreement between them as aforesaid had, falsely, unlawfully, and wickedly did charge and accuse the said *G. G.* that he the said *G.* then lately before had committed the Crime of Sodomy, commonly called Buggery, with him the said *H. P.* whereas in Truth and in Fact, the said *G. G.* was never guilty of the said Crime, or of any Crime of the like Nature, and that the said *H. P. C. W.* and *S. T.* in Pursuance of and according to the Conspiracy, Combination, and Agreement aforesaid, between them as aforesaid had, afterwards, to wit, on the said twentieth Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, unlawfully, wickedly, and unjustly did obtain, acquire, and get into their Hands and Possession, the Sum of five Pounds of lawful Money of *Great Britain*, of the Monies of the said *G. G.* of and from the said *G.* under the aforesaid false Colour and Pretence, and also under Colour and Pretence of concealing the said supposed Crime, and for not prosecuting the said *G. G.* for the same, to the great Damage of the said *G. G.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid do further present,

sent, That the said *H. P. C. W.* and *S. T.* on the said twentieth Day of *May*, in the said first Year of the Reign of our said Lord the King, at the Parish of *St. James, Clerkenwell*, in the said County of *Middlesex*, wickedly, unlawfully, and for Lucre and Gain Sake, did threaten the said *G. G.* that unless he the said *G. G.* would give them the said *H. P. C. W.* and *S. T.* five Pounds, they the said *H. P. C. W.* and *S. T.* would swear Sodomy (meaning the detestable Crime of Sodomy called Buggery) against him the said *G. G.* whereas in Truth and in Fact the said *G. G.* was never guilty of the Crime of Sodomy, or of any such Crime, and the said *H. P. C. W.* and *S. T.* afterwards, to wit, the same Day and Year, at the Parish aforesaid, in the County aforesaid, by Means of the Threatening aforesaid, unlawfully, wickedly and injuriously did obtain, acquire, and get to themselves of and from the said *G. G.* five Pounds of lawful Money of *Great Britain*, of the Monies of the said *G. G.* to the great Damage of the said *G. G.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For conspiring, to charge a Man with a Robbery on the Highway, and preferring an Indictment against him, which was returned Ignoramus.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, that *A.* the Wife of *J. C.* late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Yeoman, *R. W.* late of the same, Yeoman, and *T. N.* late of the same, Yeoman, being Persons of evil Name and Fame, and of dishonest Conversation, and wickedly devising and intending unjustly to deprive one

one *J. S.* of his good Name, Credit and Reputation, and also to subject the said *J. S.* without any just Cause, to the Loss of his Life and Forfeiture of his Goods, on the eighth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, among themselves did conspire, combine and agree, falsely to charge and accuse the said *J. S.* that he the said *J. S.* had then lately before feloniously stolen diverse Goods, Chattels and Monies of the said *I. C.* from the Person and against the Will of the said *A. C.* And the Jurors aforesaid upon their Oath aforesaid, do further present, That the said *A. C. R. W.* and *T. N.* afterwards, to wit, on the said eighth Day of *December*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, according to the Conspiracy, Combination and Agreement between them as aforesaid had, falsely, unlawfully and maliciously, in the Presence and Hearing of diverse Persons, did accuse the said *J. S.* that he the said *J. S.* had then lately before stolen diverse Goods, Chattels and Monies of the said *I. C.* from the Person, and against the Will of the said *A. C.* to the great Damage of the said *J. S.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That in further Prosecution of the said wicked Devices and Intentions of them the said *A. C. R. W.* and *T. N.* and according to the Conspiracy, Combination and Agreement between them, as aforesaid had, they the said *A. C. R. W.* and *T. N.* afterwards, to wit, at the General Sessions of the Peace of our said Lord the King, holden at *Hicks's-Hall* in *St. John-Street*, in and for the County aforesaid, on the said eighth Day of *December*, in the Year aforesaid, before *R. N. J. M. E. B.* Esqrs. and others

others their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the said County, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds, committed in the same County, did exhibit a certain Bill of Indictment, against the said J. S. by the Name and Addition of J. S. late of the Parish of St. Giles in the Fields, in the County of Middlesex, Vintner, to E. W. (*Here insert the Names of all the Grand Jury*) good and lawful Men of the said County, then and there sworn, and charged to enquire for our said Lord the King, for the Body of the said County; which said Bill of Indictment was, by the same Jurors above named, then and there returned in the Court, before the Justices of our said Lord the King above named, and others their Fellows aforesaid, thus indorsed, [*Bill not found*] which said Bill followeth: *Middlesex*. “ The Jurors for our Lord
 “ the King upon their Oath present, That J. S.
 “ late of the Parish of St. Giles in the Fields, in
 “ the County of Middlesex, Vintner, on the fif-
 “ teenth Day of November, in the first Year of
 “ the Reign of our Sovereign Lord George the
 “ Third, now King of Great Britain, &c. with
 “ Force and Arms, at the Parish aforesaid, in the
 “ County aforesaid, in the Dwelling-House of one
 “ J. H. there situate, in and upon one A. the
 “ Wife of I. C. in the Peace of God and our said
 “ Lord the King, then and there being, feloniously
 “ did make an Assault, and her the said A. in
 “ bodily Fear and Danger of her Life, in the said
 “ Dwelling-House, then and there feloniously did
 “ put, and one Linen Pocket, of the Value of
 “ one Penny, and three Pieces of Gold Coin, of
 “ the proper Coin of this Realm, called Guineas,
 “ of the Value of three Pounds three Shillings,
 “ of the Goods, Chattels, and Monies of the said
 “ I. C. from the Person, and against the Will of
 “ the

“ the said *A. C.* in the Dwelling-House aforesaid,
 “ then and there, violently and feloniously did
 “ steal, take, and carry away, against the Peace
 “ of our said Lord the King, his Crown and Dig-
 “ nity.” By Means of which said false Accusa-
 tion and Prosecution against him the said *J. S.* in
 Manner and Form aforesaid, he the said *J. S.* was
 greatly defamed and disgraced, and put to great
 Expence of his Money, to the great Damage and
 Disgrace of the said *J. S.* to the evil Example of
 all others in the like Case offending, and against
 the Peace, &c.

*For a Conspiracy among Workmen to raise their
 Wages.*

Middlesex. **T**HE Jurors for our Lord the King
 upon their Oath present, That
A. B. late of, &c. *C. D.* late of, &c. and *W. S.*
 late of, &c. on the fifth Day of *October*, in the first
 Year of the Reign of our Sovereign Lord *George*
 the Third, now King of *Great Britain*, &c. being
 Workmen and Journeymen in the Art, Mystery
 and manual Occupation of a Wheelwright, and not
 being content to work and labour in that Art and
 Mystery by the usual Number of Hours in each
 Day, and at the usual Rates and Prices, for which
 they and other Workmen and Journeymen were
 wont and accustomed to work, but falsely and frau-
 dulently conspiring and combining, unjustly and
 oppressively, to increase and augment the Wages
 of themselves, and other Workmen and Journey-
 men in the said Art, and unjustly to exact and ex-
 tort great Sums of Money for their Labour and
 Hire, in their said Art, Mystery and manual Oc-
 cupation, from their Masters who employ them
 therein, on the same Day and Year, at the Parish
 aforesaid, in the County aforesaid, together with
 diverse

diverse other Workmen and Journeymen in the same Art, Myſtery and manual Occupation, unlawfully did aſſemble and meet together, and ſo being aſſembled and met, did then and there, unjuſtly and corruptly conſpire, combine and agree among themſelves, that none of the ſaid Conſpirators, after the ſame fifth Day of *October*, would work at any lower or leſſer Rate than five Shillings for hewing of every hundred of Spokes for Wheels, and eight Shillings for making of every Pair of hinder Wheels; and alſo that none of the ſaid Conſpirators would work Day-Work, or labour any longer than from the Hour of Six in the Morning till the Hour of Seven in the Evening, in each Day, to the great Damage and Oppreſſion, not only of their Maſters employing them in the ſaid Art, Myſtery and manual Occupation, but alſo of diverſe others of his Maſteſty's liege Subjects, to the evil Example of all others in the like Caſe offending, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

The above Precedent is founded on the common Law, and will make a good Charge in the Statute, by concluding againſt the Form of the Statute in ſuch Caſe made and provided: The Words of the Stat. 2 & 3 Ed. 6. c. 15. are: " If any Artificers, Workmen
" or Labourers do conſpire, covenant or promiſe
" together, or make any Oaths, that they ſhall not
" make or do their Works, but at a certain Price
" or Rate, or ſhall not enterpriſe, or take upon
" them to finiſh that another hath begun, or ſhall
" do but a certain Work in a Day, or ſhall work
" but at certain Hours and Times, that then every
" Perſon ſo conſpiring, covenanting,
" ſwearing or offending, being law-
" fully convicted thereof, by Witneſs,
" Confeſſion or otherwiſe, ſhall for-

The Pun-
iſhment of
Labourers
conſpiring,
feit,

196 Precedents of Indictments, &c.

touching the Times or Manner of their Work. “ feit, for the first Offence, ten Pounds
 “ to the King’s Highness, if he have
 “ sufficient to pay the same, and do
 “ also pay the same within six Days
 “ next after his Conviction, or else shall suffer for
 “ the same Offence twenty Days Imprisonment,
 “ and shall only have Bread and Water for his Suf-
 “ tenance. And for his second Offence, shall for-
 “ feit twenty Pounds to the King, if he have suf-
 “ ficient to pay the same, and do pay the same
 “ within six Days next after his Conviction, or
 “ else shall suffer for the second Offence Punish-
 “ ment of the Pillory, and for the third Offence,
 “ shall forfeit forty Pounds to the King, if he have
 “ sufficient to pay the same, and also do pay the
 “ same within six Days next after his Conviction,
 “ or else shall sit on the Pillory, and lose one of his
 “ Ears, and also shall at all Times after that, be
 “ taken as a Man infamous, and his Sayings, De-
 “ positions or Oath, not to be credited at any
 “ Time, in any Matters of Judgment.”

What Ma-
 gistrates may
 inquire of,
 and punish
 Offenders. Justices of Assise, Justices of Peace,
 Mayors, Bailiffs, and Stewards of
 Leets, at all and every their Sessions,
 Leets and Courts, shall have full Power
 and Authority to enquire, hear and
 determine all and singular Offences
 committed against this Statute, and to punish, or
 cause to be punished, the Offender, according to
 the Tenor of the Statute.

For a Conspiracy, and defrauding a Person of Fifty Pounds, under Pretence of procuring his Son the Office and Place of Deputy Comptroller of the Customs, in the Port of Milford.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. H.* late of the Parish of *St. Martin* in the *Fields* in the County of *Middlesex*, Esq; *W. N.* late of the same, Mariner, and *T. J.* late of the same, Yeoman, wickedly and unjustly devising and intending to defraud one *J. W.* of his Monies on the sixth Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish of *St. Martin* in the *Fields*, in the County of *Middlesex* aforesaid, falsely, fraudulently, and unlawfully did conspire, combine and agree among themselves, to obtain, acquire, and get into their Hands and Possession, of and from one *B. W.* the Wife of the said *J. W.* a great Sum of Money, under a false Colour and Pretence of procuring for *G. W.* Son of the said *J. W.* and *B. W.* the Office and Place of Deputy of the said *W. H.* as Comptroller of his Majesty's Customs in the Port of *Milford*, and the Members and Creeks thereunto belonging. And the said *W. H.* in Pursuance of, and according to the Conspiracy, Combination and Agreement aforesaid, between him and the said *W. N.* and *T. J.* so as aforesaid, before had, afterwards, to wit, on the said sixth Day of *August*, in the Year aforesaid, falsely, fraudulently, unlawfully and deceitfully did pretend to the said *B. W.* that he the said *W. H.* then had, as Comptroller of his Majesty's Customs, in the Port of *Milford*, and the Members and Creeks thereunto belonging, Power and Authority, then

and there to appoint the said *G. W.* to be his Deputy, and that the said *T. J.* in Pursuance of, and according to the Conspiracy, Combination, and Agreement aforesaid, between him and the said *W. H.* and *W. N.* so as aforesaid before had, did then and there fraudulently pretend and affirm to the said *B. W.* that he the said *T. J.* had Power and Authority on Behalf of the said *W. H.* to dispose of the said Office and Place of Deputy, to the said *W. H.* as aforesaid, and that the said *T. J.* and *W. N.* in Pursuance of, and according to the Conspiracy, Combination and Agreement aforesaid, between them and the said *W. H.* so as aforesaid had, afterwards, to wit, on the said sixth Day of *August*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, by the false Pretences aforesaid, and also by Colour and Pretence of a certain Deputation, purporting to be under the Hand and Seal of the said *W. H.* and purporting that the said *W. H.* had thereby deputed and impowered the said *G. W.* to act and officiate for him the said *W. H.* as his Deputy, in the Office, Business, and Employment of a Comptroller of the Customs, at *Aberdovy*, a Member or Creek belonging to the chief Port of *Milford*, fraudulently and unlawfully did obtain, acquire, and get into their Hands and Possession, the Sum of fifty Pounds of lawful Money of *Great Britain*, of the Monies of the said *J. W.* of and from the said *B. W.* that is to say, the said *T. J.* the Sum of fifteen Pounds, and the said *W. N.* the Sum of thirty-five Pounds; whereas in Truth and in Fact, the said *W. H.* had not then any Power or Authority to appoint the said *G. W.* to be his Deputy, or in any wise to depute and impower him the said *G. W.* to act and officiate for him the said *W. H.* as his Deputy in the Office, Business and Employment of a Comptroller of his Customs of *Aberdovy* aforesaid, and so the Jurors aforesaid, upon

on their Oath aforesaid, do say, that the said *W. H. W. N.* and *T. J.* according to the Conspiracy, Combination, and Agreement between them as aforesaid before had, them, the aforesaid *J. W.* and *B.* his Wife, of the said Sum of fifty Pounds, in Manner and Form aforesaid, fraudulently and unlawfully did deceive and defraud to the great Damage of the said *J. W.* and against the Peace of our said Lord the King, his Crown and Dignity.

Conspiracy and Champerty defined.

CONSPIRATORS be they that do Confeder, or bind themselves by Oath, Covenant or other Alliance, that every of them shall aid and bear the other falsely and maliciously, to indite, or cause to indite, or falsely to move, or maintain Pleas, and also such as cause Children within Age to appeal Men of Felony, whereby they are imprisoned and sore grieved, and such as retain Men in the Country with Liveries or Fees for to maintain malicious Enterprizes, and this extendeth as well to the Takers as to the Givers. Stewards and Bailiffs of great Lords, which by their Seigniority, Office or Power, undertake to bear or maintain Quarrels, Pleas, or Debates that concern other Parties.

CHAMPERTORS be they that move Pleas and Suits, and sue them at their proper Costs to have part of the Land or Gain in Variance. Vide 33 Ed. 1. Stat. 2. See of other Conspirators, Stat. 2 & 3 Ed. 6. c. 15. touching Viſtuallers, &c.

From the above Definition of Conspirators it seems clearly to follow, that not only those who actually cause an innocent Man to be indicted, and also to be tried upon the Indictment, whereupon he is lawfully acquitted

¹ Hawk. c. 72. *ted, are properly Conspirators; but*
 Sect. 2. *that those also are guilty of this Of-*

fence, who barely conspire to indict
a Man falsely and maliciously, whether they do any
Act in Prosecution of such Conspiracy, or not, for the
Words of the Statute seem expressly to include all such
Confederacies under the Notion of Conspiracy, whether
there be any Prosecution thereof or not.

Mr. Serjeant Hawkins, in his first Book of his
Pleas of the Crown, ch. 72. Sect. 2. is of Opinion,
That the malicious putting a Man to the unreasonable
Charge, Scandal and Trouble of a criminal Prosecu-
tion, which is so palpably groundless, as not to have
Probability enough to induce a Grand Jury to find an
Indictment, is a good Foundation of Complaint, and a
Grievance as much within the Statute, as the putting
one to the Charge and Vexation of a groundless Action,

nor is the same wholly unsupported by
⁹ Co. 56. *Authority, as appears by Poulter's*
Case in Coke's ninth Report; but since it doth not
appear to have been solemnly resolved, that such an
Offender is indictable upon the Sta-
¹ Hawk ch. 72. *tute, it seems to be more safe and ad-*
 Sect. 2. *viseable to ground an Indictment of*

this Kind upon the Common Law, than upon the Sta-
tute, since there can be no Doubt, but that all Con-
federacies whatsoever, wrongfully to prejudice a third
Person, are highly criminal at Common Law, as

where diverse Persons confederate
¹ Lev. 62. 126. *together by indirect Means to im-*
¹ Sid. 174. ¹ Keb. *poverish a third Person, as falsely*
 350. *and maliciously to charge a Man*
with being the reputed Father of a Bastard Child, or
to maintain one another in any Matter, whether it
be true or false.

It plainly appears from the Words of the Statute,
that one Person alone cannot be guilty of Conspiracy
within

within the Purport of it, from whence it follows, That if all the Defendants who are prosecuted for such a Conspiracy be acquitted but one, the Acquittal of the rest is the Acquittal of the one also; also upon the same Ground it hath been holden, That no such Prosecution is maintainable against a Husband and Wife only, because they are esteemed but as one Person in Law, and are presumed to have but one Will.

*1 Hawk. c. 72.
Sect. 8.*

He who is convicted at the Suit of the King of a Conspiracy to accuse another of a Matter which may touch his Life, shall have Judgment that he lose the Freedom and Franchise of the Law (whereby he is disabled to be put upon any Jury, or to be sworn as a Witness, or even to appear in Person in any of the King's Courts;) and also that his House, Lands and Goods shall be seised into the King's Hands, and his Houses and Lands stripped and wasted, his Trees rooted up and arrased, and his Body imprisoned. And this is commonly called a villanous Judgment, and is given by the Common Law, and not by any Statute, and is said generally in some Books, to be the proper Judgment upon every Conviction of Conspiracy, at the Suit of the King, without any Restriction to such as endangered the Life of the Party; but this Point is no where found to be settled.

*1 Hawk. c. 72.
Sect. 9.*

The above Judgment is seldom or ever given in this Case, but the usual Method that is taken at this Time to punish the Party, is by Pillory, Fine and Imprisonment, and till they find sufficient Sureties for their good Behaviour for a certain Term.

C O N S T A B L E.

Against a Constable, for not presenting the Inhabitants of a Parish for not repairing a Highway.

Oxfordshire. **T**HE Jurors for our Lord the King upon their Oath present, That C. R. late of the Liberty of *Eye and Dunsdon*, in the County of *Oxford*, Yeoman, on the thirty-first Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* and long before, being Constable of the Liberty aforesaid, in the County aforesaid, and then well knowing a certain Part of the common and ancient King's Highway, called *Stretton Lane*, used for all the Subjects of our said Lord the King, and his Ancestors, with their Horses, Coaches, Carts and Carriages, to go, return, pass, ride and labour at their Will, and lying within the Liberty aforesaid, containing in Length twenty Yards, and in Breadth eight Yards, then and long before to have been very ruinous, miry, deep, broken, and in such Decay, for Want of due Reparation and Amendment of the same, that the liege Subjects of our said Lord the King, by the same Way, with their Horses, Coaches, Carts and Carriages, had not been able, nor then were able to go, return, pass, ride and labour, without great Danger of their Lives, and the Loss of their Goods: Nevertheless, the said C. R. afterwards, to wit, on the said thirty-first Day of *July*, in the Year aforesaid, at *Oxford*, in the County aforesaid, at the Assises and General Session of Oyer and Terminer, then and there holden for the County aforesaid, unlawfully and contemptuously did neglect to make and return a Presentment against the
Inhabitants

Inhabitants of the Liberty aforesaid, in the County aforesaid, for not repairing and amending the said common King's Highway, as he the said C. R. ought to have done, and of Right did belong to him to do, to the great Hinderance of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Refusing to watch with the Constable, when duly summoned.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That Z. Y. late of ———, Yeoman, on the third Day of *August*, in the first Year, &c. and long before, was an Inhabitant in the Parish aforesaid, in the County aforesaid, and that the said Z. Y. then and there, was duly summoned, and required to watch in the Night of the same Day with E. S. then one of the Constables of the same Parish, in the County aforesaid, nevertheless the said Z. Y. his Duty in that Behalf wholly neglecting, then, to wit, in the Night of the same Day, or in any Part of the same Night, did not watch with the said Constable, in the Parish aforesaid, in the County aforesaid; but to do his Duty in that Behalf, then and there, totally did neglect, and wilfully, obstinately and contemptuously, then and there, did make Default, in Contempt of our said Lord the King, and his Laws, and against the Peace, &c.

Indictment upon
a Presentment of
Constable.

It seems, that if a Man, who is compellable to watch, shall contemptuously refuse upon Request of the Constable, the Constable may present him at the Assises, or Session of the Peace, for his Default; which Presentment is to be drawn into Form, as above, and returned by the Grand Inquest into Court.

For

For a Contempt by a Headborough in refusing to convey a Person to Bridewell, committed by a Justice of Peace.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the third Day of *August*, in the first Year of the Reign, &c. one *J. P.* at the Parish of *St. George* in the *East*, in the County of *Middlesex*, was brought by one *I. W.* then being one of the Headboroughs of the same Parish, before *C. W. P.* Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, and the said *J. P.* then and there was charged, upon the Oath of one *S. B.* for violently assaulting her, in Breach of his Majesty's Peace; which said *J. P.* then and there, was examined before the said *C. W. P.* the Justice aforesaid, concerning the said Offence, so as above charged upon him. Upon which, and for that the said *J. P.* then could not find Sureties before the same Justice for his personal Appearance at the then next General Quarter-Session of the Peace, to be holden for the County aforesaid to answer of and concerning the Premises, he the said *C. W. P.* Justice of the Peace aforesaid, in due Form of Law, did then and there make a certain Warrant, under his Hand and Seal, bearing Date on the said third Day of *August*, in the Year of our Lord One thousand seven hundred and sixty-one, directed to the Keeper of *Bridewell*, commanding the said Keeper, that he should receive into his Custody the Body of the said *J. P.* charged upon the Oath of the said *S. B.* with the Premises above specified, and for want of Sureties; and the said Justice, by his
Warrant

Warrant aforesaid, did command the said Keeper the said *J. P.* safely to keep, until he the said *J. P.* by due Course of Law, from thence should be discharged; which same Warrant afterward, to wit, on the said——Day of——in the said first Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County aforesaid, was delivered to the said *I. W.* then being one of the Headboroughs of the same Parish, and then and there having the said *J. P.* in his Custody, for the aforesaid Cause; and the said *J. W.* then and there, was required and commanded, by the said *C. W. P.* the aforesaid Justice, immediately to convey the said *J. P.* to the said *Bridewell*, and to deliver the said *J. P.* to the Keeper thereof, together with the aforesaid Warrant. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *I. W.* late of the Parish aforesaid, in the County aforesaid, Yeoman, afterwards, to wit, on the said third Day of *August*, in the Year last aforesaid, then as aforesaid, being one of the Headboroughs of the same Parish, and then having the said *J. P.* in his Custody for the aforesaid Cause, at the Parish aforesaid, in the County aforesaid, unlawfully and contemptuously did neglect and refuse to convey the said *J. P.* to *Bridewell*, together with the said Warrant, as he the said *I. W.* by Virtue of his said Office according to Law, should and ought to have done, to the great Hindrance of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For a Contempt by a High Constable, in disobeying an Order of Sessions, for producing an Account of all Monies by him received on several County Rates.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That at the General Quarter Session of the Peace of our Lord the King, holden for the County of *Middlesex*, at *Hicks's-Hall* in *St. John-Street*, in the County aforesaid, by Adjournment on *Saturday*, to wit, the twentieth Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. before *R. T. J. M. J. E. H. T.* Esquires, and other their Fellows, Justices of our said Lord the King, assigned to keep the Peace, in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County. It was ordered, by the same Justices and Court there as followeth, to wit, "It is Ordered
 " by this Court, That the present and late High
 " Constables of this County herein after named,
 " to wit, *W. N. Gent.* present High Constable of
 " the City and Liberty of *Westminster*; and *T. J.*
 " Gent. late High Constable of *Holbourn* Division;
 " *W. F. Gent.* late High Constable of *Fin-*
 " *bury* Division; *J. P. Gent.* present High Con-
 " stable of the *Tower* Division; *C. W. P. Gent.*
 " late High Constable of the same Division; *W.*
 " *L. Gent.* present High Constable of *Kensington*
 " Division; *J. J. Gent.* late High Constable of
 " the same Division; *J. R. Gent.* and *H. M. Gent.*
 " present High Constables within the Hundred of
 " *Edmonton*; *W. N. Gent.* and *R. W. Gent.* pre-
 " sent High Constables within the Hundred of
 " *Gore*, do personally attend and produce before
 " the

“ the Court of the next General Session of the
 “ Peace to be holden for this County, at *Hicks’s-*
 “ *Hall* in *St. John-Street*, in the said County, by
 “ Adjournment on *Tuesday* the twenty-seventh
 “ Day of *August* next, at three of the Clock in
 “ the Afternoon of the same Day, a true and per-
 “ fect Account in Writing of all Monies by them
 “ respectively received, during their respective
 “ Continuance in their Office of High Constable,
 “ or after their, or any of their being discharged
 “ from the same, for Relief of maimed Soldiers
 “ and Mariners, for the *Marshalsea*, *King’s-Bench*,
 “ and Hospitals; for the passing and relieving of
 “ Vagrants; for Repair of the publick Bridges of
 “ this County, and for Repair of the House of Cor-
 “ rection at *Clerkenwell*, in the same County, or
 “ for any of the Purposes aforesaid, and of their
 “ respective Payments out of the same, together
 “ with the Receipts and Vouchers to them respec-
 “ tively given for such Payments; and also a true
 “ Account in Writing of all such Arrears as are yet
 “ standing out and unreceived, upon the several Rates
 “ made for raising of Monies, for any of the Purposes
 “ aforesaid, from any and what Parishes or Places
 “ within their respective Districts, and of the true
 “ Christian Names and Surnames of the petty Con-
 “ stables, or Parish Officers, who have made De-
 “ fault in not paying the said Arrears: And here-
 “ of the said present and late High Constables are
 “ not to fail, as they and every of them will an-
 “ swer the contrary at their Peril.” As by the
 said Order of Court, is manifest and appeareth,
 of which said Order the said *T. J.* one of the High
 Constables in the abovesaid Order named, after-
 wards, to wit, on the nineteenth Day of *August*,
 in the Year abovesaid, at the Parish of *St. Sepulchre*,
 in the said County of *Middlesex*, had Notice; ne-
 vertheless the said *T. J.* late of the Parish of *St.*

208 **Precedents of Indictments, &c.**

Andrew, Holbourn, in the County of *Middlesex*, Gent. on the said twenty-seventh Day of *August*, in the Year aforesaid, (then being High Constable of *Holbourn* Division as in the Order above-mentioned) at the Hour of Three in the Afternoon of the same Day, and throughout that Day, at the Parish of *St. Sepulchre* aforesaid, in the County aforesaid, unlawfully and contemptuously did neglect and refuse personally to attend and produce before the Court of General Session of the Peace, holden for the County aforesaid, at *Hicks's Hall* aforesaid, in the County aforesaid, by Adjournment aforesaid, on the said *Tuesday* the twenty-seventh Day of *August*, in the Year aforesaid, at the Hour aforesaid, a true and perfect Account in Writing of all Monies by him received, during his Continuance in his said Office of High Constable for Relief of maimed Soldiers and Mariners, for the *Marshalsea*, *King's-Bench*, and Hospitals, for the passing and relieving of Vagrants; for Repair of publick Bridges of the County aforesaid, and for the Repair of the House of Correction at *Clerkenwell*, in the same County, or for any of the Purposes aforesaid, and of his Payments out of the same, together with the Receipts and Vouchers to him given for such Payments, and also a true Account in Writing of all such Arrears as were then standing out, and unreceived upon the several Rates made for raising of Monies for any of the Purposes aforesaid, from any and what Parishes and Places within his Division, and of the true Christian Names and Surnames of the petty Constables, or Parish Officers, who have made default in not paying the said Arrears, as by the said Order he the said *T. J.* was required to do, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against

*Against a Constable for not appointing any Watch,
and absenting himself from Watching.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, Butcher, on the ninth Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* and long before was, and still is one of the Constables of the Parish aforesaid, in the County aforesaid; and that the aforesaid *A. B.* by Reason of his Office aforesaid, ought to appoint sufficient Watch to be kept through the whole Night, by Men Inhabitants of the same Parish, in convenient Places within the Parish aforesaid, for the Preservation of the Peace of our said Lord the King, and for the apprehending of Malefactors and suspicious Persons, nevertheless the said *A. B.* so being Constable, and neglecting his Duty in this Part in the Night, of the aforesaid ninth Day of *August*, in the Year aforesaid, or in any Part of the said Night, at the Parish aforesaid, in the County aforesaid, did not appoint any Watch to be kept by Men Inhabitants of the same Parish, within the Parish aforesaid, but then and there the whole Night aforesaid, from his said Office voluntarily and obstinately did absent himself, and contemptuously did make default therein, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For refusing to execute the Office of Chief Constable of a Hundred.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That at the General Quarter Session of the Peace of our said Lord the King, holden at *Hicks's-Hall*, in *St. John-Street*, in and for the County of *Middlesex*, by Adjournment on *Thursday* the ninth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. before *T. L. E. B. J. M. T. D.* Esquires, and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County, one *W. B.* late of the Parish of *St. Andrew, Holbourn*, in the said County of *Middlesex*, Turner, then and long before being an Inhabitant, and residing in the Parish aforesaid, within the Hundred of *Ossulston*, in the said County of *Middlesex*, and a proper Person to execute the Office of Chief Constable, within the said Hundred, at the same Session by the Justices above named, in due Manner was elected to be one of the Chief Constables of the Hundred aforesaid, in the room and stead of one *J. B.* whereof the said *W. B.* afterward, to wit, on the fifteenth Day of the same Month of *October*, in the Year aforesaid, at the said Parish of *St. Andrew, Holbourn*, in the said County of *Middlesex*, had Notice; nevertheless the said *W. B.* his Duty in that Behalf not regarding, but contriving and intending as much as in him lay, to prevent and hinder the due Execution of Justice, from the said fifteenth Day of *October*, in the Year aforesaid, until the Day of taking this Inquisition, at the Parish aforesaid, within the
Hundred

Hundred aforesaid, in the County aforesaid, unlawfully, wilfully, obstinately, and contemptuously did refuse to take upon himself and execute the said Office of Chief Constable, within the Hundred aforesaid, contrary to his Duty in that Behalf; in manifest Contempt and Delay of Justice, to the evil Example of all others in like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Every Justice of the Peace may cause two Constables to be chosen in each Hundred; and this seemeth to be meant of the High Constables of Hundreds, and to include and imply of Congruence the Swearing of them.

Lamb 190.

And by the Stat. 34. H. 8. cap. 26. two Justices of the Peace, the one being of the Quorum, may appoint the High Constables in Wales.

The usual Manner is, that these High Constables of Hundreds be chosen either at the Quarter Sessions of the Peace; or, if out of the Sessions, then by the greater Number of the Justices of the Peace of that Division where they dwell:

Dalt. cap. 25.

And likewise that they be sworn, either at the Sessions, or by Warrant from the Sessions; which Course hath been allowed and commended by the Judges of Assise.

For refusing to take the Oath of Petty Constable, and to execute that Office.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That R. K. late of the Parish of St. Giles in the Fields, in the County of Middlesex, Clockmaker, on the eighth Day of October, in the first Year of the Reign of our Sovereign Lord, George the Third, King of Great Britain, &c. and long before, was

an Inhabitant, and residing within the Parish aforesaid, in the County aforesaid, and an able Person to serve the Office of Petty Constable for the same Parish, and he the said *R. K.* on the said eighth Day of *October*, in the Year aforesaid, at the Vestry-Room of the same Parish, there situate, lawfully and in due Manner was elected and chosen by *J. W. A. G. P. D. J. L.* and *H. G.* ancient Inhabitants of the same Parish, and usually present at the Election of Parish Officers for the Parish aforesaid, into the Office of Petty Constable for the said Parish of *St. Giles* in the *Fields*, in the said County of *Middlesex*, for one Year from thence next following, to do and execute all and singular those Things, which belong to the Office of Constable; and that the said *R. K.* afterwards, to wit, on the first Day of *November*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, had due Notice thereof, and then and there was required to appear before *J. M. Esq;* then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine diverse Felonies, Trespasses and other Misdeeds committed in the same County, on the same first Day of *November*, in the Year aforesaid, to take his Oath for the due executing the said Office of Petty Constable for the same Parish, according to the Duty of that Office: Nevertheless the said *R. K.* his Duty in that Behalf not regarding, but contriving and intending wholly to neglect to serve the said Office of Petty Constable, after he the said *R. K.* was so elected and chosen into the said Office, as aforesaid, to wit, on the said first Day of *November*, in the Year aforesaid, and continually afterwards, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, unlawfully and contemptuously did refuse,

fuse, and still doth refuse, to take his said Oath for the due executing the said Office of Petty Constable, and in any wise to execute the same Office, to the great Hindrance of Justice, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Petty Constables are Assistants to High Constables in each Town, Parish or Vill, the Chusing of whom properly belongs to the Court Leet; but now they are elected by the Parishioners, and sworn by a Justice of the Peace, &c. who may, on just Cause, remove them.

By the Stat. 13 & 14 Car. 2. c. 12. if any Constable, Headborough or Tithingman, shall die or go out of the Parish, any two Justices of the Peace may make and swear a new Constable, &c. until the Lord of the Manor shall hold a Court, or until the next Quarter Sessions, who shall approve of the said Officers or appoint others. And if any Officer shall continue above a Year, the Quarter Sessions may discharge him and appoint another until the Lord shall hold a Court.

These Constables are appointed yearly, and are to be Men of Honesty, Knowledge, and Ability: And if they refuse to serve, may be bound over to the Sessions, and indicted and fined, or fined in the Leet.

3 Rep. 41. p.
11. 5 Mod. 96.
Stra. Rep. 920.

C O R O N E R.

Against a Coroner refusing to take an Inquisition.

Lincoln. **T**HE Jurors for our Lord the King upon their Oath present, That on the twenty-seventh Day of May, in the first Year of

the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* one *D. C.* at *Long-Leadenham*, in the County of *Lincoln*, was drowned and suffocated in a certain Pond, and of that Drowning and Suffocating she the said *D. C.* then and there instantly died; and that the Body of the said *D. C.* at *Long-Leadenham* aforesaid, in the County aforesaid, lay dead, of which one *W. D.* late of *G.* in the County aforesaid, Gentleman, afterwards, to wit, on the said twenty-seventh Day of *May*, in the Year aforesaid, then being one of the Coroners of our said Lord the King, for the County aforesaid, at *G.* aforesaid, had Notice: Nevertheless, the said *W. D.* the Duty of his Office, in that Behalf, not regarding, afterward, to wit, on the said twenty-seventh Day of *May*, in the Year aforesaid, at *G.* aforesaid, in the County aforesaid, to execute his Office of and concerning the Premises, and to take Inquisition for our said Lord the King, according to the Laws and Custom of this Realm, unlawfully, obstinately and contemptuously did neglect and refuse; and that the said *W. D.* no Inquisition in that Behalf, as yet, hath taken, to the great Hindrance of Justice, in Contempt of our said Lord the King and his Laws, and against the Peace, &c.

C O T T A G E S.

For erecting a Cottage and continuing the same, contrary to the Stat. 31 Eliz. c. 7. §. 1 & 2.

Salop. **T**HE Jurors for our Lord the King, upon their Oath present, That *R. P.* late of the Parish of *Oswestry*, in the County of *Salop*, Yeoman, on the eleventh Day of *March*, in the first Year of the Reign of our Sovereign Lord *George* the

the Third, King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, did make, build and erect, and cause to be made, built and erected, a certain Cottage, for Habitation and Dwelling of himself and Family, in a certain Place there, called *Elbow-Lane*, and he, the said *R. P.* did not assign and lay to the same Cottage and Building, four Acres of Ground, to be continually occupied and manured therewith, so long as the said Cottage should be inhabited against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *R. P.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, the said Cottage, so as aforesaid, erected for Habitation and Dwelling, unlawfully and willingly did uphold, maintain and continue, from the said eleventh Day of *March*, in the Year aforesaid, until the fourteenth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, to which same Cottage he, the said *R. P.* did not assign and lay four Acres of Ground to be used and occupied with the same as aforesaid, against the Form of the Statute in that Case made and provided, against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 31st of *Eliz. c. 7.* it is enacted, *That no Person shall within the Realm of England, make, build, or erect, or cause to be made, builded, or erected, any Manner of Cottage for Habitation or Dwelling, nor convert or ordain any Building or Housing made, to be used as a Cottage for Habitation or Dwelling, unless the same Person do assign, and lay to the same Cottage or Building, four Acres of Ground at least, to be accounted according to the Statute or Ordinance*

216 **Precedents of Indictments, &c.**

de terris mensurandis, being his or her own Freehold or Inheritance, lying near to the said Cottage, to be continually occupied and manured therewith, so long as the same Cottage shall be inhabited, upon Pain to forfeit to the Queen, her Heirs or Successors, ten Pounds for every such Offence.

That every Person that shall willingly uphold, maintain and continue, any such Cottage so erected, converted, or ordained for Habitation or Dwelling, whereunto four Acres of Ground, as is aforesaid, shall not be assigned and laid to be used and occupied with the same, shall forfeit to the Queen, her Heirs or Successors, forty Shillings for every Month, that any such Cottage shall be by him or them upholden, maintained and continued.

The above Indictment may be divided into two distinct Offences; first, for erecting and building, upon which the Penalty of ten Pounds is given; and, secondly, for upholding and maintaining, upon which the Penalty of forty Shillings per Month is given: So that a Person (who did not build such Cottage) may be indicted, that upholds and maintains the same, though built by a Person unknown to him, in which Case you must vary the Indictment, and say, that on such a Day (which you need not shew particularly) a certain Person to the Jurors aforesaid unknown, did erect and build, &c. and that, from such a Time to such a Time, the said such a One did unlawfully and willingly uphold and maintain, &c. as may very readily be framed by the foregoing Precedent.

By the Stat. 43 Eliz. c. 2. §. 5. There are Exceptions in Favour of Cottages built on Wastes or Commons, for the Use of impotent Persons, to be erected by Churchwardens and Overseers of the Poor, by Leave of

of the Lord of the Manor, and also to place Inmates, or more Families in any of them.

And of Cottages in Boroughs or Market-Towns, and those of Labourers in Mines or Quarries, or in Brick, Tile, Lime or Coals. Stat. 31 Eliz. c. 7. §. 5.

And of such as are within a Mile of the Sea, or in a Forest, Chase, Warren or Park, and of those of Herdsmen, Shepherds, or impotent Persons; or of those made by Order of Assises or Sessions. Stat. 31 Eliz. c. 7. §. 6.

Offences against the Stat. 31 Eliz. are to be determined before Justices of Assise, Justices of the Peace in their open Sessions, and every Lord within the Precinct of his Leet, and no others, as will by Indictment, as otherwise, by Presentment or Information; and who may award Execution for the levying the several Forfeitures aforesaid, by Fieri Facias, Elegit, Capias, or otherwise, as the Cause shall require.

D E C E I T.

Indictment for defrauding a Person of a Sum of Money, by Colour of a false and counterfeit Letter, and other false Tokens, upon the Stat. 33 H. 8. c. 1.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That L. P. late of the Parish of St. James, within the Liberty of *Westminster*, in the County of *Middlesex*, Taylor, being a Person of ill Name and Fame, and dishonest Conversation, and not minding to get his Living by Truth and honest Labour, according to the Laws of this Realm, but compassing and devising how he might unlawfully obtain and get into his Hands and Possession the Monies of the honest Liege Subjects of our said Lord the King,

King, for the Maintenance of his unthrifty Living, on the sixth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, falsely and deceitfully did pretend and affirm to one *T. T.* that his the said *L. P.*'s Name was *H. H.* and that he was the Son of *H. H.* of *Newcastle*, in the County of *Stafford*, Esq; and Nephew to Mr. *H.* of *Newport*, in the County of *Salop* (meaning *J. H.* of *Newport*, in the County of *Salop*, Clerk) and that the said *L. P.* a certain false and counterfeit Letter, in the Name of him the said *J. H.* as a true Letter of the proper Hand-Writing of him the said *J. H.* falsely, fraudulently, and deceitfully to the said *T. T.* then and there did deliver (the said *J. H.* of *Newport*, in the County of *Salop*, Clerk, then and long before being the Friend and intimate Acquaintance of him the said *T. T.*) by which said false and counterfeit Letter, it was mentioned, that the said *J. H.* desired the said *T. T.* to supply the Bearer thereof, Mr. *H. H.* with the Sum of sixty Guineas, and place it to his Account (meaning the Account of him the said *J. H.*) and that the said *T. T.* then and there believing the said false and counterfeit Letter to be of the proper Hand-Writing of him the said *J. H.* did then and there pay and deliver to the said *L. P.* sixty Pieces of Gold Coin of the proper Coin of this Kingdom called Guineas, of the Value of sixty-three Pounds of lawful Money of *Great Britain*; whereas in Truth and in Fact, the said *J. H.* never did write or send, or cause to be written or sent any such Letter to the said *T. T.* desiring the said *T. T.* to supply the said *H. H.* with any Sum of Money whatever. And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *L. P.* on the said sixth Day of *November*, in the Year aforesaid, at

the said Parish of *St. James*, within the Liberty of *Westminster*, in the said County of *Middlesex*, by Colour of the said counterfeit Letter, and by the said false Pretences, unlawfully, falsely, fraudulently, and deceitfully did obtain and get into his Hands and Possession, of and from the said *T. T.* the said Sum of sixty-three Pounds of lawful Money of *Great Britain*, of the Monies of him the said *T. T.* and the said *L. P.* the said *T. T.* of his Money aforesaid, then and there fraudulently, and deceitfully did deceive and defraud, to the great Damage and Deceit of the said *T. T.* to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

Offences of this Kind depend upon
the Stat. 33 H. 8. c. 1. by which it is 33 H. 8. ch. 1.
enacted, *That if any Person or Persons shall falsely and deceitfully obtain, or get into his or their Hands or Possession, any Money, Goods, Chattels, Jewels, or other Things of any other Person or Persons, by Colour and Means of any false Token or counterfeit Letter, made in another Man's Name, to a special Friend or Acquaintance, for the obtaining Money, &c. from such Person, and shall be thereof convicted, by Witness taken before the Lord Chancellor, or before the Justices of Assise, or before the Justices of Peace of any County, City, Borough, Town, or Franchise in their General Sessions, or by Action in any of the King's Courts of Record, every such Offender shall suffer such Punishment, by Imprisonment, setting upon the Pillory, or otherwise by any corporal Pain, except Pains of Death, as shall be appointed by those before whom he shall be so Convict.*

And it is further enacted, by the said Statute,
That as well the Justices of Assise for the Time being,

as

220 **Precedents of Indictments, &c.**

as also two Justices of the Peace, in the same County, whereof the one to be of the Quorum, may call and convene by Process, or otherwise, to the said Assises, or General Sessions, any Person being suspected of any of the Offences aforesaid, and to commit or bail him till the next Assises or General Sessions.

Sir Edward Coke is of Opinion, 3 Inst. 123. That the Offender cannot be fined in a Prosecution upon this Statute, because it is expressly ordained, that some corporal Punishment shall be inflicted, and no other is mentioned: However, there is a Precedent in Croke's Report, by which it appears, that one convicted on such a Prosecution, hath been adjudged not only to stand on the Pillory, but also to pay a Fine of five Hundred Pounds, and to be bound with good Securities to his good Behaviour.

*Cro. Car. 564.
Terry's Case.*

The Party, grieved by such Deceit, has his Remedy by Way of Action or otherwise, for the same Money, Goods, Chattels, Jewels, or other Things so obtained, as he might have had if this Act had not been made Stat. 33 H. 8. c. 1. §. 4.

For winning Goods at an unlawful Game by throwing Dice; as indictable at common Law.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *T. H.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Labourer, and *W. B.* late of the same Place, Labourer, being Persons of evil Name and Fame, and of dishonest Conversation, and not caring to get their Livelihood by honest Labour, but by Fraud and Deceit, maintaining their idle Course of Life, on the tenth Day of *March*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain*,

Britain, &c. at the Parish aforesaid, in the County aforesaid, at an unlawful Game, Artifice and Practice, with Dice, and by laying Wagers with one *T. W.* relating to the throwing the Dice, did fraudulently and deceitfully win, obtain, and get to themselves, of and from the said *T. W.* two Pair of Brass Candlesticks, of the Value of ten Shillings, of the Goods and Chattels of the said *T. W.* and him the said *T. W.* of his said Goods and Chattels, in Manner and Form aforesaid, then and there fraudulently and deceitfully, did deceive and defraud, to the great Damage of the said *T. W.* and against the Peace of our said Lord the King, his Crown and Dignity.

For selling counterfeit Dutch Guilders, for good and true Guilders.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *I. B.* late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Yeoman, being a Person of evil Name and Fame, and of dishonest Conversation, and devising and intending one *W. H.* unjustly and injuriously to deceive and defraud, on the eleventh Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, sixteen Pieces of false Coin (amounting together, to the Value of seventeen Shillings and Four-pence, of lawful Money of *Great Britain*, and no more) counterfeited to the Likeness and Similitude of a certain foreign Coin, made of Silver with an Alloy of Copper, and other base Metals, called *Dutch* Guilder, unlawfully, fraudulently, and deceitfully did utter, and sell to the said *W. H.* for the Sum of twenty-six Shillings and Eight-

Eight-pence, of lawful Money of *Great Britain*, for, and as true and good Pieces of foreign Coin, called *Dutch* Guilders, each Guilder of the Value of Twenty-pence of lawful Money of *Great Britain*; (he the said *I. B.* then and there well knowing the said Pieces of Coin, so as aforesaid by him uttered and sold, to have been false and counterfeit, to the great Damage and Deceit of him the said *W. H.* and against the Peace of our said Lord the King, his Crown and Dignity.

For pledging a Brass Chain coloured with Gold, for, and as pure Gold.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Widow, being a Person of evil Name and Fame, and dishonest Conversation, and devising and intending to deceive and defraud one *C. D.* of his Monies, on the ninth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. craftily and deceitfully did offer, and propose to the said *C.* to borrow of him the said *C.* the Sum of five Pounds, and that for securing the Repayment of the said Sum of five Pounds and Interest, she the said *A.* would leave a Pledge of a Gold Chain with a Gold Locket, with the said *C.* and she the said *A.* in farther Prosecution of her Devices and Intentions aforesaid, did then and there give and deliver unto the said *C.* a Gold Locket, together with a Brass Chain, which same Chain was coloured with certain Materials, producing the Colour of Gold, and not exceeding in the whole the Value of fifteen Shillings; and then and there fraudulently and deceitfully did pretend and affirm to the said *C.* that the said Locket and Chain were pure Gold,

Gold, and were worth five Pounds; (ſhe the ſaid *A.* then and there well knowing the ſaid Chain to be Braſs, coloured with certain Materials producing the Colour of Gold; and that the ſaid Locket and Chain did not exceed the Value of fifteen Shillings in the whole :) And ſhe the ſaid *A.* under the falſe Pretences aforeſaid, and by pledging the ſaid Locket and Chain to the ſaid *C.* for and as a Gold Chain and a Gold Locket, of the Value of five Pounds, then and there fraudulently and unjuſtly did obtain, acquire, and get to herſelf, of and from the ſaid *C.* the Sum of five Pounds of lawful Money of *Great Britain*. And ſo the Jurors aforeſaid, upon their Oath aforeſaid, do ſay, that the ſaid *A. B.* the ſaid *C. D.* of the ſaid Sum of five Pounds, in Manner aforeſaid, fraudulently and deceitfully did deceive and defraud, to the great Damage of the ſaid *C.* to the evil Example of all others in the like Caſe offending, and againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

For uttering a counterfeit Half-Guinea.

Middleſex. **T**HE Jurors for our Lord the King upon their Oath preſent, That *G. H.* late of the Pariſh of *St. Andrew, Holbourn*, in the County of *Middleſex*, Labourer, and *B. H.* late of the ſame Place, Labourer, being Perſons of evil Name and Fame, and of diſhoneſt Converſation, on the fifth Day of *Auguſt*, in the firſt Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* one Piece of falſe Money made of baſe Metals, and coloured with a certain Waſh, producing the Colour of Gold, to the Likeneſs and Similitude of a Piece of good, lawful and current Gold Money and Coin of this Realm called a Half-guinea, unlawfully, unjuſtly, and

224 **Precedents of Indictments, &c.**

and deceitfully did utter and pay to one *J. W.* for, and as a Piece of good and lawful Gold Money and Coin of this Realm, called a Half-guinea, (they the said *G. H.* and *B. H.* then and there well knowing, and each of them well knowing the said Piece to have been false and counterfeit, as aforesaid) to the great Damage of the said *J. W.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For uttering a counterfeit Sixpence; and having another found in his Custody.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, that *A. M.* late of the Parish of *St. Anne*, in the County of *Middlesex*, Labourer, being a Person of evil Name and Fame, and dishonest Conversation, on the twenty-first Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, one Piece of false Money, made of certain mixed base Metals, counterfeited to the Likeness and Similitude of a Piece of good, lawful, and current Money and Coin of this Realm, called a Sixpence, unlawfully, unjustly, and deceitfully did utter and pay to one *E. C.* for, and as a Piece of good and lawful Money and Coin of this Realm, called a Sixpence (he the said *A. M.* then and there well knowing the said Piece to have been false and counterfeit as aforesaid,) to the great Damage of the said *E. C.* and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A. M.* on the said twenty-first Day of *April*, in the Year aforesaid, at the Parish aforesaid, in the County
I
aforesaid,

aforesaid, unlawfully had in the Custody and Possession of him the said *A. M.* one other Piece of false Money, made of mixed base Metals, counterfeited to the Likeness and Similitude of a Piece of good, lawful, and current Money and Coin of this Realm, called a Sixpence, (he the said *A. M.* then and there well knowing the said last mentioned Piece to have been false and counterfeit as aforesaid) with an Intent to utter and pay the said last mentioned Piece of false and counterfeit Money, to one of the Subjects of our said Lord the King, in Contempt of our said Lord the King, and his Laws; to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For causing and procuring Guineas filed and diminished, to be uttered as good Guineas.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. L.* late of the Parish of *St. Mary Stratford, Bow*, in the County of *Middlesex*, Yeoman, being a Person of evil Name and Fame, and of dishonest Conversation, on the second Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did unlawfully and deceitfully, with an Intent to defraud one *R. A.* utter and expose, and cause and procure to be uttered and exposed, to the said *R. A.* nine Pieces of Gold, for and as good and true Guineas of the proper Money of this Realm, notwithstanding none of the said nine Pieces of Gold; at the said Time, when they were so uttered and exposed, and caused and procured to be uttered and exposed, were good and true Guineas, of the proper Money of this Realm; but each of them had been unlawfully
Q
filed,

filed, and by such Filing diminished, and rendered defective of their Weight, which before such Filing they had, being before such Filing good and true Guineas, of the proper Money of this Realm, he the said *W. L.* at the Time he so uttered and exposed, and caused and procured to be uttered and exposed, the said nine Pieces of Gold as aforesaid, then and there well knowing, that none of them were good and true Guineas, but that each of them had been so as aforesaid filed, diminished, and rendered defective of their Weight, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Mr. Serj. Hawkins's Opinion.

First, That the Offence is indictable.

Secondly, That if A. deliver such Guineas to B. to get changed, A. is indictable, and all other Persons that are privy to, and acting therein, although the Guineas be carried by B. in their Absence, to be changed, if it be by their Procurement.

Thirdly, That where the Guineas are delivered by A. to B. to get changed in one County, and B. utters them in another, in such Case A. must be indicted in the County, where the uttering was by B. But for more of this Matter see hereafter under the Head Treason.

For obtaining a Note into his Hand, under Pretence of inspecting the same, and tearing and cancelling it.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *R. K.* late of the Parish of *St. Mary le Bone*, in the County of *Middlesex*, Labourer, being a Person of ill Name and Fame, and of dishonest Conversation,
on

On the twentieth Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, falsely, fraudulently and deceitfully, and by false Arts, Colours, and Pretences, did obtain, acquire, and get into his Hands and Possession, of and from one *H. W.* a certain promissory Note, signed with the proper Hand-Writing of him the said *R. K.* bearing Date the tenth Day of *July* then before, by which said Note the said *R. K.* promised to pay to the said *H. W.* or his Order, the Sum of ten Pounds, one Month after the Date of the same Note, for Value received by him the said *R. K.* to wit, under Colour and Pretence, that he the said *R. K.* would inspect the said Note, and then and there immediately re-deliver the same Note to him the said *H. W.* and that he the said *R. K.* afterwards, to wit, the said twentieth Day of *August*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, fraudulently and unlawfully did cancel, tear, and destroy the said Note (the said Sum of ten Pounds, in the said Note mentioned, or any Part thereof then being unpaid) with an Intent to deceive and defraud the said *H. W.* of the Monies due and payable by Virtue of the same Note, to the great Damage of the said *H. W.* and against the Peace of our said Lord the King, his Crown and Dignity.

For a Fraud in Indorsing a Note after Payment.

Kent. **T**HE Jurors for our Lord the King upon their Oath present, That *G. J.* of *Bromley*, in the County of *Kent*, Silk-Mercer, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and five (to wit)

on the eighteenth Day of *September*, in the Year of our Lord One thousand seven hundred and sixty-one, at *Rocheſter*, in the ſaid County of *Kent*, made a certain Note in Writing, ſubſcribed with his own Hand, commonly called a promiſſory Note, bearing Date on the ſame Day and Year, by which Note the ſaid G. promiſed to pay to one J. H. or his Order, ten Pounds, -fourteen Days after the Date of the ſaid Note, for Value received, by the ſaid G. by Reason of which, and by Force of the Statute in that Caſe lately made and provided, the ſaid G. became liable to pay to the ſaid J. or his Order, the ſaid ten Pounds, according to the Tenor of the ſaid Note, and the ſaid Sum of Money being unpaid, the ſaid J. H. afterwards, to wit, on twentieth Day of *November*, in the ſaid Year of our Lord One thousand ſeven hundred and ſixty-one, at *Rocheſter* aforeſaid, in the ſaid County of *Kent*, falſly and fraudulently affirmed to the ſaid G. J. that the ſaid Note was miſlaid, and could not be found by him the ſaid J. H. upon which falſe and fraudulent Affirmation of the ſaid J. he the ſaid G. then and there paid to the ſaid J. the ſaid ten Pounds, in full Satisfaction and Diſcharge of the ſaid Note, and the ſaid Note remaining in the Hand and Poſſeſſion of the ſaid J. he the ſaid J. H. late of *Rocheſter* aforeſaid, in the ſaid County of *Kent*, Silversmith, contriving, and fraudulently and wickedly intending to injure the ſaid G. J. and to ſubject him to the Payment of the Contents of the ſaid Note, notwithstanding his Payment of the ſaid ten Pounds to the ſaid J. as aforeſaid, afterwards, to wit, on the firſt Day of *January*, in the Year of our Lord One thousand ſeven hundred and ſixty-two, in the ſecond Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at *Rocheſter* aforeſaid, in the County aforeſaid, falſly and fraudulently, by an Indorſement on the

the said Note, subscribed with the proper Hand-Writing of him the said J. H. ordered the Contents of the said Note to be paid to one E. B. and then and there delivered the said Note so indorsed by him as aforesaid, unto the said E. B. and thereby, and by Force of the said Statute in that Case lately made and provided, the said G. J. became liable to pay the said E. B. the said ten Pounds mentioned in the said Note, and being so liable, he the said G. J. afterwards, to wit, on the third Day of January, in the Year last above mentioned, at Rochester aforesaid, in the County aforesaid, paid to the said E. B. the said ten Pounds, mentioned in the said Note, to the great Damage of the said G. J. to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Pensioner of Chelsea College, for defrauding the King of Money, by procuring himself to be admitted an Out-Pensioner of the same College, as of another Regiment, and under Pretence that he was not otherwise provided for by the Government.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That W. C. late of the Parish of Chelsea, in the County of Middlesex, Labourer, on the fifteenth Day of June, in the first Year of the Reign of our late Sovereign Lord King George the Second, of Great Britain, &c. at the Parish of Chelsea, in the said County of Middlesex, was admitted an Out-Pensioner of the Royal Hospital at Chelsea, from the Regiment of Foot then commanded by J. S. Esq; by Reason of his Service as a Soldier in the said Regiment, and the said W. C. did continue such Pensioner, from the said fifteenth Day of June,

in the Year aforesaid, until the twenty-fourth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* during which Time, he the said *W. C.* at the Parish aforesaid, in the County aforesaid, did receive of and from the Pay-Master of the said Hospital, a Pension of Five-pence by the Day. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *W. C.* being a Person of ill Name and Fame, and of dishonest Conversation, and devising and intending fraudulently and unjustly to obtain and acquire to himself diverse Sums of Money of and from the Pay-Master of the said Hospital, and to defraud our said now Lord the King of diverse Sums of Money, afterwards, to wit, on the third Day of *December*, in the third Year of the Reign of our said late Lord the King, at the Parish aforesaid, in the County aforesaid, unlawfully, fraudulently, and deceitfully did cause and procure himself to be admitted an Out-Pensioner of the said Hospital, as from the first Regiment of Foot Guards, under Pretence of his Service as a Soldier in the same Regiment, and also under Pretence that he the said *W. C.* was not otherwise provided for by the Government; and the said *W. C.* did continue such Pensioner as from the said first Regiment of Foot Guards, from the said third Day of *December*, in the Year last above mentioned, until the twenty-fourth Day of *December*, in the seventh Year of the Reign of our said late Lord the King, at the Parish aforesaid, in the County aforesaid, and the said *W. C.* the better to perfect his wicked Devices and Intentions, on the twenty-fourth Day of *July*, in the said first Year of the Reign of our said late Lord the King, and diverse other Days and Times, during the Time last above mentioned, at the Parish aforesaid, in the County aforesaid, falsely and wickedly

wickedly did depose and swear, upon his corporal Oath, before T. C. Esq; then and yet one of the Justices of our said now Lord the King, assigned to keep the Peace in the said County of *Middlesex*, that he the said W. C. was a Pensioner of *Chelsea-College*, meaning the said Royal Hospital of *Chelsea*, from the first Regiment of Foot Guards, and that he the said W. C. was not otherwise provided for by the Government; whereas in Truth and in Fact the said W. C. then and during the whole Time last above mentioned, to wit, from the said third Day of *December*, in the said third Year of the Reign of our said late Lord the King, until the said twenty-fourth Day of *December*, in the said seventh Year of the Reign of the same King, was otherwise provided for by the Government, than as a Pensioner from the first Regiment of Foot Guards, that is to say, he the said W. C. during the whole Time last above mentioned was provided for, and did receive a Pension of five Pence by the Day, as a Pensioner of the said College, or Royal Hospital of *Chelsea*, from S.'s Regiment, in Manner and Form as is above specified. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said W. C. at diverse Days and Times, between the said third Day of *December*, in the said third Year of the Reign of our said late Lord the King, and the said twenty-fourth Day of *December*, in the said first Year of our now Lord the King, at the Parish aforesaid, in the County aforesaid, under the false Pretence aforesaid, did fraudulently receive and obtain of and from the Pay-Master of the said Hospital, diverse Sums of Money, amounting in the whole to the Sum of thirty Pounds seventeen Shillings and eleven Pence, as a Pensioner from the said first Regiment of Foot Guards; and so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said W.

232 **Precedents of Indictments, &c.**

C. in Manner and Form aforesaid, did fraudulently and deceitfully deceive and defraud our said now Lord the King of the Sum of thirty Pounds, seventeen Shillings and eleven Pence, to the great Damage of our said now Lord the King, to the evil Example of all others in the like Case offending, and against the Peace of our said now Lord the King, his Crown and Dignity.

For a Misdemeanor in producing and publishing a forged Writing, purporting to be the Request of a Prosecutor to the Attorney-General, to obtain a Noli Prosequi upon an Indictment for an Assault, and by Colour of such Writing obtaining thereof.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That formerly, to wit, on *Tuesday* next after three Weeks of the *Holy Trinity*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* before our said Lord the King himself at *Westminster*, in the County of *Middlesex*, by the Oath of *A. B. H. G. J. G. M. T. T. L. P. W. W.* Esqrs. *J. T. E. H. J. P. J. R. J. H. W. S. J. H. S. A. S. R. S. H. J. P. G.* and *J. L.* good and lawful Men of the County of *Middlesex* aforesaid, then and there impanelled, sworn and charged, to inquire for our said Lord the King, for the Body of the County aforesaid: it was presented in Manner and Form following, that is to say, *Middlesex.* The Jurors for our Lord the King upon their Oath present, That *J. M.* late of the Parish of *St. Martin* in the *Fields*, in the County of *Middlesex*, Vintner, and *P. D.* late of the same, Broker, on the tenth of *February*, in the first Year of the Reign of our Sovereign

vereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish of *St. Paul, Covent Garden*, in the County of *Middlesex* aforesaid, in and upon one *I. M.* Gent. in the Peace of God and our said Lord the King, then and there being, did made an Assault, and him the said *I. M.* then and there did beat, wound, and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said *I. M.* then and there did, to the great Damage of the said *I. M.* and against the Peace of our said Lord the King, his Crown and Dignity. As by the said Indictment, in the said Court of our said Lord the King at *Westminster*, remaining filed of Record plainly doth appear; and the Jurors aforesaid, now here sworn and charged to enquire for our said Lord the King, for the Body of the County of *Middlesex* aforesaid, upon their Oath aforesaid, do further present, That *J. W.* late of the Parish of *St. Clement Danes*, in the said County of *Middlesex*, Dyer, *W. R.* late of the said Parish of *St. Clement Danes*, in the County aforesaid, Blacksmith, and *A. F.* late of the same Parish and County, Gent. on the twenty-ninth Day of *September*, in the second Year of the Reign of our said Lord the King, contriving, intending, and among themselves conspiring and combining, as much as in them was, the due Course of Law, unlawfully and unjustly in that Behalf to hinder and pervert, and a certain Warrant of *C. P. Esq;* then and yet being Attorney-General of our said Lord the King, by unlawful and by false and most wicked Ways and Means, to obtain and procure for the Entry of a *Noli Prosequi*, upon the Indictment aforesaid, and for Staying all Proceedings thereupon, they the said *J. W. W. R.* and *A. F.* afterwards, to wit, on the said twenty-ninth Day of *September*, in the said first Year of the Reign of our said Lord the King,

King, at the said Parish of *St. Clement Danes*. in the County of *Middlesex* aforesaid, according to the Conspiracy, Combination, and Agreement between them as aforesaid had, before the said *C. P.* Esq; then and there being Attorney-General of our said Lord the King, did bring and produce, and every of them did bring and produce a certain false, forged, and counterfeit Writing, (by a certain ill-disposed Person, to the said Jurors now here, as yet unknown, falsely forged, made and counterfeited) purporting to be signed in the Name and by the said *I. M.* the Prosecutor of the said Indictment, and to bear Date the twenty-eighth Day of *September*, in the said second Year of the Reign of our said Lord the King, and to contain the Desire of him the said *I. M.* to the said Attorney-General, to sign a Warrant of *Noli Prosequi*, for to stay all Proceedings upon the said Indictment, which said false, forged, and counterfeit Writing, in these Words and Figures, is as follows: (to wit) “Where-
 “ as *J. M.* and *P. D.* do stand indicted in his Ma-
 “ jesty’s Court of *King’s-Bench, Westminster*, for
 “ making an Assault upon me, *I. M.* the tenth
 “ Day of *February* last past, such Indictment be-
 “ ing found in *Trinity-Term* last in the said Court;
 “ now I the said *I. M.* the Prosecutor of such In-
 “ dictment, do hereby humbly desire, with all due
 “ Submission to his present Majesty’s Attorney-
 “ General, to sign a Warrant of *Noli Prosequi*, to
 “ stay all Proceedings on such Indictment, as Wit-
 “ nefs my Hand, dated the twenty-eighth Day
 “ of *September*, in the first Year of the Reign of
 “ our present Sovereign Lord King *George* the
 “ Third, in the Year of our Lord One thousand
 “ seven hundred and sixty-one. *I. M.* Signed
 “ under the Hand-Writing of the said *I. M.* in
 “ the Presence of *J. D.*” And that the said *J.*
W. W. R. and *A. F.* afterwards, to wit, on the
 said

faid twenty-ninth Day of *September*, in the faid first Year of the Reign of our faid Lord the King, with Force and Arms, at the Parish of St. *Clement Danes* aforefaid, in the County aforefaid, before the faid C. P. Esq; then and there being Attorney-General of our faid Lord the King as aforefaid, falſly, knowingly, ſubtilly, and deceitfully the faid falſe, forged, and counterfeit Writing did publiſh and declare, and every one of them did publiſh and declare as a true Writing, ſubſcribed and ſigned by the faid I. M. with Intention as aforefaid, ſuch Warrant of *Noli Proſequi*, of the faid Attorney-General of our faid Lord the King, to have and obtain, (they the faid J. W. W. R. and A. F. then and there well knowing, and every one of them well knowing the faid Writing to be falſly made, forged, and counterfeited as aforefaid.) And the Jurors aforefaid, now here ſworn and charged to inquire for our faid Lord the King, for the Body of the faid County of *Middleſex* as aforefaid, upon their Oath aforefaid, do further preſent, That the faid J. W. W. R. and A. F. in further Proſecution of their wicked Contrivance and Intention, and according to the Conſpiracy, Combination and Agreement aforefaid, among themſelves as aforefaid had, and their evil Purpose and Design to compleat and render effectual, on the faid twenty-ninth Day of *September*, in the faid first Year of the Reign of our faid Lord the King, at the Parish of St. *Clement Danes* aforefaid, in the faid County of *Middleſex*, before the faid Attorney-General of our faid Lord the King, did produce, and every one of them did produce the faid falſe, forged, and counterfeit Writing, annexed to a certain *Affidavit* in Writing, purporting to be an *Affidavit* under the Name of one J. J. ſubſcribed and ſworn, and ſuppoſed to be ſworn before Sir E. P. Knt. one of the Juſtices of our faid Lord the King,

King, assigned to hold Pleas before the King himself, the Tenor of which said *Affidavit*, is in the Words and Figures following: “*J. J. of London,*
 “*Mariner, maketh Oath, that he this Deponent*
 “*was present at the signing of the Paper Writing,*
 “*hereunto annexed, which imports a Desire of a*
 “*Noli Prosequi, and that such Writing so signed,*
 “*is of the proper Hand-Writing of I. M. who*
 “*subscribed the same, for that this Deponent*
 “*knows him very well. J. J. swore at Serjeants-*
 “*Inn, the twenty-ninth of September, One thou-*
 “*sand seven hundred and sixty-two, before E. P.*”
 Whereas in Truth and in Fact, the Writing in the said *Affidavit* mentioned, was not, nor is the proper Hand-Writing of him the said *I. M.* in the same *Affidavit* likewise named, nor by him subscribed. (They the said *J. W. W. R.* and *A. F.* then and there well knowing, and every one of them then and there well knowing the Writing in the said *Affidavit* mentioned, and to the same *Affidavit* annexed, not to be the proper Hand-Writing of the said *I. M.* in the said *Affidavit* named, nor by him subscribed) but then and there well knowing, and every one of them well knowing the Matters in the same *Affidavit* contained, to be false and fictitious, and they the said *J. W. W. R.* and *A. F.* by Colour and Pretence, as well of the said false, forged, and counterfeited Writing, as of the aforesaid *Affidavit* thereunto annexed, afterwards, to wit, on the said twenty-ninth Day of *September*, in the second Year of the Reign of our said Sovereign Lord the King, at the said Parish of *St. Clement Danes*, in the County of *Middlesex* aforesaid, falsely, subtilly, knowingly, and deceitfully into their Hands did obtain, and have a certain Warrant of *Noli Prosequi*, of and from the said *C. P.* then and there as aforesaid, being Attorney-General of our said Lord the King, for entering and causing to be
 entered

entered a *Noli Prosequi* upon the Indictment aforesaid, and for staying all Proceedings thereupon, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For defrauding a Person of Money by counterfeiting the Post Mark on a Piece of Paper folded up like a Letter.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *S. L.* late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Labourer, being a Person of evil Name and Fame, and dishonest Conversation, and devising and intending to deceive and defraud the Liege Subjects of our said Lord the King of their Monies, by Colour and Pretext of the Duties payable to our said Lord the King for Postage and Conveyance of Letters, on the first Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, in and upon a certain Piece of Paper, folded up and sealed in the Form of a Letter, directed for *Mr. S. R.* to be left at *Mr. H.* at the *Bear, &c. London*, and inclosing another Piece of Paper, supposing to be a Letter directed for *Mr. L. R. London*, fraudulently and deceitfully did counterfeit and resemble, and cause to be counterfeited and resembled the Impression of the Mark or Stamp used by the Deputy Post-Master of the City of *Exeter*, to mark Letters sent by the Post from the said City of *Exeter* to the City of *London*, to wit, the Word *Exeter*, and also the Impression of the Mark or Stamp used by the
Post

238 **Precedents of Indictments, &c.**

Post Master General at the City of *London*, to stamp Letters, brought by the Post from other Post-Towns to the said City of *London*, which said Mark denotes the Day and Month when such Letters are brought to the last mentioned City; and that the said *S. L.* by Colour of the said counterfeit Impressions, and under Pretence that he the said *S. L.* had paid the Sum of eight Pence for the Postage of the said Letter, did then and there, to wit, the said first Day of *May*, in the Year aforesaid, at the said Parish of *St. James, Clerkenwell*, in the County of *Middlesex* aforesaid, fraudulently and deceitfully demand, receive, and have of *J. H.* for and on Behalf of the said *L. R.* the Sum of eight Pence of lawful Money of *Great Britain*, and so the said *S. L.* him the said *L. R.* of the said Sum of eight Pence, then and there fraudulently and deceitfully did deceive and defraud, to the great Damage of the said *L. R.* and against the Peace of our said Lord the King, his Crown and Dignity.

For defrauding a Person of Money, under Pretence of procuring a Licence to sell Ale.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *E. N.* late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Labourer, being a Person of ill Name and Fame, and of dishonest Conversation, on the ninth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, falsely, fraudulently, and deceitfully did pretend and assert to one *E. J.* Widow, that he the said *E. N.* would procure a certain Licence, under the Hands of two Justices

Justices of our said Lord the King, assigned to keep the Peace of our said Lord the King, in the County aforesaid, for the said *E. J.* to keep an Ale-house within the Parish aforesaid; and the said *E. N.* under the Colour and Pretence aforesaid, then and there fraudulently and unlawfully did obtain, acquire, and get into the Hands and Possession of him the said *E. N.* of and from the said *E. J.* the Sum of six Shillings of lawful Money of *Great Britain*, of the Monies of the said *E. J.* whereas in Truth and in Fact, the said *E. N.* never did procure such Licence for the said *E. J.* and so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *E. N.* the said *E. J.* of the said Sum of six Shillings, in Manner and Form aforesaid, then and there fraudulently and wickedly did deceive and defraud, to the great Damage of the said *E. J.* and against the Peace of our said Lord the King, his Crown and Dignity.

Deceit and Cousemage are Offences at Common Law, and may in general be described to be deceitful Practices, in defrauding or endeavouring to defraud another of his known Right, by Means of some artful Device, contrary to the plain Rules of common Honesty. (A mere Lye is not punishable.) The Punishment at Common Law for Fraud or Cheating, is Fine and Imprisonment; and sometimes Pillory, as for Cheating with false Dice, &c. uttering counterfeit Money, &c.

Finch, Book 3.
ch. 2. p. 118.
2 Cro. 497,
498. 3 Cro.
235. 2 Roll.
Abr. 78.

Indictment for false Pretences.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*,

sex, Yeoman, being an evil disposed Person, and not minding to gain his Livelyhood by Truth and honest Labour, but going about and daily contriving to defraud the honest Subjects of our Lord the King, of their Goods, Wares, and Merchandize, for the Support of his profligate way of Life; on the ——— Day of ——— in the first Year of the Reign of our Sovereign Lord *George* the Third, by the Grace of God, of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, knowingly, and designedly did falsely pretend to *C. D.* of the Parish aforesaid, Woollen-Draper, that he said *A. B.* then was the Servant of one *E. A.* of ——— Taylor, (the said *E. A.* then and long before being well known to the said *C. D.* and a Customer of the said *C. D.* in his said Business and way of Trade;) and that he the said *A. B.* was then sent by the said *E. A.* to the said *C. D.* for five Yards of certain superfine Woollen Cloth; by which said false Pretences, the said *A. B.* did then and there, to wit, at the Parish of *St. James* aforesaid, in the County aforesaid, unlawfully, knowingly, and designedly obtain from the said *C. D.* five Yards of superfine Woollen Cloth, of the Value of four Pounds fifteen Shillings, of the Goods, Wares, and Merchandize of the said *C. D.* with Intent then and there to cheat and defraud him of the same; whereas in Truth and in Fact the said *A. B.* was not then the Servant of the said *E. A.* and whereas he the said *A. B.* was not then or ever sent by the said *E. A.* to the said *C. D.* for the said Cloth, or for any Cloth whatsoever; to the great Damage and Deception of the said *C. D.* in evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in such Case lately made and provided.

Another

Another short Form used in London for Deceit for false Pretences.

THAT J. F. late of London, Silversmith, on such a Day, with Force and Arms, at London, that is to say, at the Parish of St. ——— in the Ward of ——— in London aforesaid, unlawfully, knowingly and designedly did obtain from one J. P. one Silver Tea-Kettle, of the Value of twenty Pounds, the Goods, Wares, and Merchandize of the said J. P. by false Pretences, with Intent then and there to cheat and defraud the said J. P. of the same, to the great Damage, &c. As before.

By 30 Geo. 2. cap. 24. to obtain Money, Goods, Wares or Merchandises by false Pretence or Pretences is declared an Offence, and the Offenders made liable to fine and Imprisonment, or to be put in the Pillory or publickly whipped, or to be transported seven Years.

E S C A P E.

Against a Constable negligently permitting a Man to Escape that was committed for a Rape.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That on the seventeenth Day of June, in the first Year of the Reign of our Sovereign Lord George the Third, King of Great Britain, &c. one J. S. at the Parish of St. Leonard, Shoreditch, in the County of Middlesex, was brought by one J. B. then being one of the Constables of the same Parish, before A. C. then and yet one of the Justices
R of

of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County; and the said *J. S.* then and there was charged by one *D. T.* Spinster, upon the Oath of the said *D.* with having had the carnal Knowledge of her Body against her Will, and the said *J. S.* then and there was examined before the said *A. C.* the Justice aforesaid, of the aforesaid Offence to him as above charged; upon which the said *A. C.* Justice of the Peace aforesaid, did make a certain Warrant under his Hand and Seal, in due Form of Law, bearing Date the said seventeenth Day of *June*, in the Year aforesaid, and in the Year of our Lord One thousand seven hundred and sixty-one, directed to the Keeper of *Newgate* or his Deputy, commanding him the said Keeper or his Deputy, that he should receive into his Custody the said *J. S.* brought before him, and charged upon the Oath of the said *D. T.* with the Premises above specified, and the said Justice by the aforesaid Warrant did command the said Keeper of *Newgate* or his Deputy, to safely keep him there until he by due Course of Law should be discharged; which same Warrant afterwards, to wit, on the said seventeenth Day of *June*, in the said first Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County aforesaid, was delivered to the said *J. B.* then being one of the Constables of the same Parish as aforesaid, and then and there having the said *J. S.* under his Custody for the Cause aforesaid, and the said *J. B.* then and there was required and commanded by the said *A. C.* the aforesaid Justice, immediately to convey the said *J. S.* to the said Gaol of *Newgate*, and to deliver him the said *J. S.* to the Keeper of the said Gaol or his Deputy, together with the Warrant aforesaid.

faid. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. B.* late of the Parish aforesaid, in the County aforesaid, Baker, afterward, to wit, on the said seventeenth Day of *June*, in the said first Year of the Reign of our said Lord the King, then as aforesaid being one of the Constables of the said Parish, and then having the said *J. S.* in his Custody for the Cause aforesaid, at the Parish aforesaid, in the County aforesaid, the said *J. S.* out of the Custody of him the said *J. B.* unlawfully and negligently did permit to escape, and to go at large where he would, to the great Hindrance of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Constable for negligently permitting a Man to Escape, who was arrested by him for a Misdemeanor.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the thirtieth Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish of *Pinner*, in the County of *Middlesex*, one *S. C.* came before *A. K.* Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine diverse Felonies, Trespases, and other Misdeeds committed in the same County; and the said *S. C.* did then and there, on his Oath before the same Justice, charge, accuse, and give Information against one *W. M.* of the Parish aforesaid, in the County aforesaid, Yeoman, for a certain Misdemeanor, in taking Fish

244 **Precedents of Indictments, &c.**

out of the Pond of the Most Noble J. Duke of C. at *Edgeware*, in the said County of *Middlesex*; whereupon he the said *A. K.* the Justice aforesaid, did then and there, to wit, at the Parish of *Pinner* aforesaid, in the County aforesaid, make a certain Warrant, under his Hand and Seal, in due Form of Law directed to the Constable or Headborough of the Parish of *Pinner* aforesaid, in the County aforesaid, thereby requiring them to take the Body of the said *W. M.* and bring him before the said *A. K.* the Justice aforesaid, to answer to such Matters and Things as should be alledged against him, touching the said Misdemeanor; which said Warrant, afterwards, to wit, on the same Day and Year abovementioned, at *Edgeware* aforesaid, in the County aforesaid, was delivered to one *T. W.* then being one of the Constables of the said Parish of *Pinner*, in due Form of Law, to be executed; by Virtue of which said Warrant the said *T. W.* afterwards, to wit, on the said thirtieth Day of *January*, in the Year aforesaid, at the abovesaid Parish of *Pinner*, in the said County, did take and arrest the Body of the said *W. M.* and him the said *W. M.* in his Custody for the Cause aforesaid had: Nevertheless, the said *T. W.* of the said Parish of *Pinner*, in the County aforesaid, Yeoman, afterward, to wit, on the said thirtieth Day of *January*, in the Year aforesaid, the Duty of his Office in that Part not regarding, at the Parish of *Pinner* aforesaid, in the County aforesaid, unlawfully and negligently did permit the said *W. M.* to escape, and go at large, out of the Custody of him the said said *T. W.* to the great Hindrance of Justice, in Contempt of our said Lord the King, and his Laws, and against the Peace of our said Lord the King, his Crown and Dignity.

Against

Against a Gaoler for negligently permitting a Prisoner to Escape out of his Custody, brought by Habeas Corpus from another Gaol.

Lincolnshire. **T**HE Jurors for our Lord the King upon their Oath present, That formerly, to wit, on the twelfth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* our said Lord the King commanded the Sheriff of his County of *Lincoln*, by his Writ issued out of the Court of our said Lord the King, before the King himself, at *Westminster*, in the County of *Middlesex*, in these Words, [*Recite the Writ, and make them agree*] *Bellamy*. Which said Writ, afterwards, to wit, on the ninth Day of *May*, in the Year aforesaid, at *Lincoln* aforesaid, in the County aforesaid, was delivered to *A. B.* then Sheriff of the said County of *Lincoln*, by *V. K. Esq;* then Sheriff of *Bucks* aforesaid, together with the Body of the said *A. Q.* and the Cause of the taking and detaining of the said *A. Q.* according to the Direction and Command of a Writ of our said Lord the King, of *Habeas Corpus*, then lately before issued out of the Court aforesaid, to the same Sheriff of *Bucks*. And the said Sheriff of *Bucks* did then and there certify, to the said Sheriff of *Lincoln*, that then lately before, to wit, on the ninth Day of *February*, in the Year aforesaid, *T. C. Esq;* then one of the Justices of our said Lord the King, assigned to keep the Peace in the said County of *Bucks*, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed

Telle. of
the Writ.

Here recite
the Writ of
Habeas Corpus
ad recipiendum.

The Return
of the Sheriff of
Bucks to the
Sheriff of *Lin-*
coln, on the
Back of the
Habeas Corpus
ad recipiendum.

ted in the same County, did make a certain Warrant, under his Hand and Seal, bearing Date the same Day and Year, directed to the Constable of *Newport-Pagnell*, and also to the Gaoler of our said Lord the King at *Aylesbury*, in the said County of *Bucks* or his Deputy, and thereby recited that when the said *A. Q.* was brought before the said Justice, for Suspicion of feloniously stealing of a black Mare from Mr. *W.* of *Litchfield*, in the County of *Stafford*, which he offered to sell at *Newport-Pagnell* aforesaid; and when the said Mr. *W.* had described and owned the said Mare, the said Justice, by his Warrant aforesaid, did require the said Constable to convey the said *A. Q.* to the Gaol of our said Lord the King at *Aylesbury*, and there to deliver him to the Keeper of the Gaol aforesaid, or his Deputy, who was thereby required to keep him in safe Custody, until he should from thence be delivered by due Course of Law; which said *A. Q.* to the said Sheriff of *Lincoln*, in Form aforesaid being delivered, to wit, the said ninth Day of *May*, in the Year aforesaid, by the same Sheriff, by Virtue of the Writ of our said Lord the King first above recited, was carried to the Gaol of our said Lord the King, at *Lincoln* aforesaid, there to be kept until he should be delivered according to the Laws and Customs of *England*: And that one *J. S.* late of *Lincoln* aforesaid, in the said County of *Lincoln*, Yeoman, afterward, to wit, on the twelfth Day of *May*, in the first Year of the Reign of our said Lord the King, then being Keeper of the said Gaol, and having the said *A. Q.* in the Gaol aforesaid, for the Cause aforesaid, afterward, to wit, the same Day and Year last above mentioned, at *Lincoln* aforesaid, the said *A. Q.* unlawfully and negligently did permit to go out of the said Gaol, and at large to escape where he would, in great Obstruction of Justice, to the evil
Example

Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

A negligent Escape is, when one is arrested and afterwards escapes, against the Will of him that did arrest him, and is not freshly pursued, and taken before the Pursuer loses Sight of him. Terms de la Ley.

If a Felon be arrested by the Constable, and brought to the Gaol in the County, and the Gaoler will not receive him, and the Constable lets him go, and the Gaoler also, and so he escapes, this is an Escape in the Gaoler, for that in such Case the Gaoler is bound to receive him by the Hand of the Constable, without any Precept of the Justice of Peace. But otherwise it is, if a common Person arrest another upon Suspicion of Felony, there the Gaoler is not bound to receive him without a Precept of some Justice of the Peace.

One negligent Escape will not amount to a Forfeiture of the Gaoler's Office, as one voluntary one will; yet if a Gaoler suffer many negligent Escapes, it is said, that he puts it in the Power of the Court to oust him of his Office by its Discretion. Bro. Forfeiture of Offices.

And it seems, that by the Common Law, the Penalty for suffering the negligent Escape of a Person attainted, was of Course 100l. and for suffering such Escape of a Person indicted and not attainted was 5l. but if the Person escaping were neither attainted nor indicted, it seems, that it was left to the Discretion of the Court to assess such a reasonable Forfeiture as should seem proper; and if the Party had twice escaped, it seems, that the Penalties above mentioned were of Course to be doubled. Hawk. P. C. Book 2. ch. 19. Sect. 33.

248 **Precedents of Indictments, &c.**

Every Indictment for an Escape, whether negligent or voluntary, must expressly shew, that the Party was actually in the Defendant's Custody for a Crime Action, or Commitment for it; and that it is not sufficient to say, that he was in the Defendant's Custody, and charged with such a Crime; for that a Person in Custody may be so charged, and yet not be in Custody by Reason of such Charge: And it seems also, that every such Indictment must expressly shew, that the Prisoner went at large, which is most properly expressed by the Words did go at large. Also, it seems necessary to shew the Time when the Offence was committed, for which the Party was in Custody, that it may appear, that it was prior to the Escape; also it seems clear, that every Indictment for a voluntary Escape must alledge, that the Defendant feloniously and voluntarily did permit A. B. to go at large, and must also shew the Species of the Crime, for which the Party was imprisoned; for it is not sufficient to say in general, that he was in Custody for Felony, &c. for that no one can be punished in this Degree, but as involved in the Guilt of the Crime for which the Party was in his Custody, and therefore the particular Crime must be set forth, that it may appear, that the Principal is attainted for the very same Crime, if it were Felony, or that it was in Truth committed, if High Treason.

See hereafter Title Prison, and Stat. 16 Geo. 2. c. 31.

27 Aff. pl. 9.
Bro. Escape 22.
Fitz. Affise 247.

Salk. 272.
5 Mod. 414,
415.

Bro. Escape 52.
10 H. 7. 26.

Contra 2 Leon.
66.

Bro. Escape 17.
Cro. El. 752.

Cro. El. 752.
Hetley 73.
S. P. C. 95 A.
H. P. C. 110,
111. 206.
8 Ed. 4. 3 pl. 6.

E X T O R-

E X T O R T I O N.

Against a Coroner, for Extortion.

Gloucestershire. **T**HE Jurors for our Lord the King upon their Oath present, That *W. N.* late of the Parish of —, in the County of *Gloucester*, Gent. on the ninth of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. then being one of the Coroners of our said Lord the King, for the said County of *Gloucester*, at the Parish aforesaid, in the County aforesaid, by Colour of his said Office, unlawfully, and unjustly did demand, extort, receive, and take of and from one *R. S.* the Sum of thirty Shillings of lawful Money of *Great Britain*, for and as his Fee for executing and doing of his Office aforesaid, to wit, upon the View of the Body of one *J. C.* late of *Stow in the Wold*, in the said County of *Gloucester*, Glazier, who at the Parish aforesaid, in the County aforesaid, on the Day and Year above mentioned, was slain by Misadventure, in Contempt of our said Lord the King and his Laws, to the great Damage of the said *R. S.* against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 3 Ed. 1. c. 10. a Coroner is to take no Fee.

But by the Stat. 3 H. 7. c. 1. upon an Inquisition taken upon View of the Body murdered, he shall have thirteen Skillings and four Pence of the Goods of the Murderer,

250 **Precedents of Indictments, &c.**

*Murderer, and if he hath nothing, of the Amercia-
ment of the Township for the Escape.*

*And by the Stat. 1 H. 8. c. 7. the Coroner shall
have nothing where the Inquisition is taken upon View
of one slain by Misadventure. Penalty forty Shillings.*

*Justices of Assise, and Justice of the Peace within
the County where any such Default of the Coroner be,
have Power and Authority to inquire thereof, and de-
termine the same as well by Examination as Present-
ment.*

*But by Stat. 25 Geo. 2. c. 29. the Fees are now
settled, that the Coroner be paid 20s. and 9d. for every
Mile he is obliged to travel from his Place of Abode,
except the Person die in Prison.*

*Against the Servant of a Clerk of a Market for
Extortion.*

Middlesex. **T**HE Jurors for our Lord the King
upon their Oath present, That *E.*
R. late of the Parish of *St. Mary Matfellow*, other-
wise *Whitechappel*, in the County of *Middlesex*,
Yeoman, on the fourteenth Day of *June*, in the
first Year of the Reign of our Sovereign Lord
George the Third, King of *Great Britain*, &c. at
the Parish aforesaid, in the County aforesaid, by
Colour of being Servant and Agent to *T. R.* and
C. P. Esquires, Clerk of the Market of the House-
hold of our said Lord the King, unlawfully, unjust-
ly, and extorsively did demand, receive, and have of
one *W. C.* the Sum of fourteen Pence of lawful
Money of *Great Britain*, for and as a Fee for ex-
amining, marking, and sealing of five Quart Pots
made of Pewter, seven Pint Pots made of Pewter,
and two Half-pint Pots made of Pewter; whereas
in Truth and in Fact, there was then no such Fee
due to the said *T. R.* and *C. P.* the said Clerk of
the

the Market of the Household of our said Lord the King, in that Behalf, to the great Damage and Oppression of the said *W. C.* and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Headborough for Extortion.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. E.* late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Tobacconist, on the first Day of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* then being one of the Headboroughs of the same Parish, in the County aforesaid, at the Parish of *St. Martin in the Fields*, in the County aforesaid, by Colour of his said Office, unlawfully, unjustly, and extorsively did exact, extort, receive, and have of and from one *E. J.* Widow, the Sum of five Shillings of lawful Money of this Realm, for a pretended Fee of him the said *W. E.* for taking and arresting the said *E. J.* by Virtue of a Warrant of *T. R.* Esq; (meaning *T. R.* Esq; one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine diverse Felonies, Trespasses, and other Misdeeds committed in the same County) and for the obtaining and discharging of the same Warrant, as the said *W. E.* did then alledge; whereas in Truth and in Fact, no such Fee was then due to the said *W. E.* in that Behalf, to the great Damage of the said *E. J.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against

Against a Constable for extorting Money of a Person apprehended by him on a Bench Warrant, to let her go without carrying her before any Justice of the Peace.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. F.* late of the Parish of *St. Paul, Covent-Garden*, in the County of *Middlesex*, Yeoman, on the fourth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* then being one of the Constables of the same Parish, at the Parish aforesaid, in the County aforesaid, did take and arrest one *N. L.* Spinster, by Colour of a certain Warrant, commonly called a Bench-Warrant, which he the said *A. F.* then and there had, to apprehend the said *N. L.* to answer to a certain Trespass and Assault, whereof the said *N.* then stood indicted as the said *A. F.* then and there alledged and pretended, and the said *A. F.* her the said *N.* then and there had in his Custody, and that the said *A. F.* afterwards, to wit, the same Day and Year, at the Parish aforesaid, in the County aforesaid, unlawfully, corruptly, deceitfully, and extorsively, for wicked Gain Sake, and contrary to the Duty of his Office, did extort, receive, and take of the said *N.* the Sum of five Shillings of lawful Money of *Great Britain*, for discharging the said *N.* out of the Custody of him the said *A. F.* without conveying her before any Justice of the Peace for the said County, to answer to the said Trespass and Assault, whereof she was supposed to stand indicted as aforesaid, in Contempt of our said Lord the King and his Laws, to the evil Example of all others

others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against a Tipstaff to a Judge of the King's Bench for Extortion.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. L.* late of the Parish of *St. Dunstan* in the *West*, in the County of *Middlesex*, Gent. on the second Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, unlawfully, unjustly, and extorsively did exact and receive of and from one *R. H.* two Pieces of Gold Coin, of the proper Coin of this Kingdom called Guineas, of the Value of forty-two Shillings, under Colour and Pretence of being Tipstaff to the Right Honourable *R. Lord R.* then Chief Justice of our said Lord the King, assigned to hold Pleas before the King himself, and under Colour and Pretence of a Fee due to him the said *A.* for not carrying the said *R.* to Prison, after he had taken and arrested him the said *R.* by Virtue of a Warrant, under the Hand and Seal of the said *R. Lord R.* Chief Justice aforesaid, issued forth against the said *R. H.* to answer to an Indictment then before found against the said *R. H.* at the Session of the Peace held for the County aforesaid, for an Assault upon *A. A.* as the said *A. L.* then and there alledged to the said *R. H.* whereas in Truth and in Fact, no such Fee was then due to the said *A. L.* in that Behalf, to the great Damage of the said *R. H.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against

*Against a Marshal's Court Officer for Ex-
tortion.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. Y.* late of the Parish of *St. Giles* in the *Fields*, in the County of *Middlesex*, Yeoman, on the eleventh Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. (the said *A. Y.* then being one of the Bearers of the Verges, of the Household of our said Lord the King, Officers and Ministers of the Court of our said Lord the King, of his Palace of *Westminster*) at the Parish aforesaid, in the County aforesaid, unlawfully, unjustly, and extorsively, and by Colour of his said Office, did extort, receive, and have of one *T. E.* the Sum of eighteen Shillings of lawful Money of *Great Britain*, for the Fee of him the said *A. Y.* for keeping the said *T. E.* at the House of him the said *A. Y.* situate in the Parish aforesaid, in the said County of *Middlesex*, and not conveying him the said *T. E.* to the Prison of our said Lord the King, called the *Marshalsea*, in *Southwark*, in the County of *Surry*, after he the said *A. Y.* had arrested the said *T. E.* by Virtue of a certain Writ of our said Lord the King, called a *Marshal's Court* Writ, issued out of the said Court of our said Lord the King, under the Seal of the same Court, bearing Date the tenth Day of the abovesaid Month of *April*, in the Year aforesaid, and returnable in the same Court, on the fourteenth Day of *April*, then next following, to answer *D. D.* of a Plea of Trespass on the Case, to his Damage ninety nine Shillings, (as the said *A. Y.* then and there did alledge;) whereas in Truth and in Fact, no Fee whatever, to
the

FORCIBLE ENTRY. 255

the said *A. Y.* in that Part then was due, to the great Damage of him the said *T. E.* to the evil Example of all others in like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Extortion is an unlawful taking, by any Officer, of extraordinary Money, or other excessive Reward, by Colour of his Office, for the Execution of his Duty: Or it is the taking of Money from a Person where none is due, or not so much, or before it is due. 10 Rep. 102.

Where the Law will not suffer an Officer to take any Thing, a Promise to pay Money is void. 1 Roll. Ab. 16.

Extortion at Common Law is punishable by Fine and Imprisonment; and by Statute, Officers of Justice, &c. guilty of Extortion, are to render treble Value. Stat. 3. E. 1. c. 30.

FORCIBLE ENTRY.

For a forcible Entry and Detainer at Common Law.

The Liberty of St. Alban in the County of Hertford, **T**HE Jurors for our Lord the King, upon their Oath present, That *T. J.* late of the Parish of *East-Barnet*, within the Liberty of *St. Alban*, in the County of *Hertford*, Gentleman, and *E. P.* late of the same, Spinster, together with diverse other Malefactors and Disturbers of the Peace of our said Lord the King (whose Names to the Jurors aforesaid are yet unknown) on the thirtieth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms,

256 **Precedents of Indictments, &c.**

Arms, at the Parish aforesaid, within the Liberty aforesaid, in the County aforesaid, unlawfully and injuriously did enter into a certain Barn and a certain Orchard, then and there being in the Possession of one *G. A.* (four Carts Load of Hay of the Value of ten Pounds, of the Goods and Chattels of the said *G. A.* then and there being in the same Barn) and that the said *T. J.* and *E. P.* together with the said other Malefactors, then and there, with Force and Arms, unlawfully and injuriously did expel, amove, and put out the said *G. A.* from the Possession of the said Barn and Orchard, and the said *G. A.* so as aforesaid expelled, amoved, and put out from the Possession of the said Barn and Orchard, then and there, with Force and Arms, unlawfully and injuriously did keep out, and still do keep out, and other Wrongs to the said *G. A.* then and there did, to the great Damage of the said *G. A.* and against the Peace of our said Lord the King, his Crown and Dignity.

For a Forcible Entry and expelling out of Possession, at Common Law.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *C. P.* late of the Parish of *St. James*, within the Liberty of *Westminster*, in and for the County of *Middlesex*, Yeoman, *T. C.* late of the same, Apothecary, and diverse other Persons, to the Jurors aforesaid, as yet unknown, on the twenty-eighth Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, into one Shop, one Warehouse, and one Stable, being Parcel of the Dwelling-house of *L. H.* Widow, there situate, unlawfully and injuriously did enter (the
said

FORCIBLE ENTRY. 257

saïd Shop, Warehouse, and Stable, then and there being in the Possession of *R. F.*) and him the saïd *R. F.* out of the Possession of the same Premisses, unlawfully and injuriously did expel and put out, and him the saïd *R. F.* so as aforesaid, expelled and put out from the Possession of the same Premisses, on the Day and Year above-mentioned, and continually afterwards, until the Day of the taking this Inquisition, at the Parish aforesaid, in the County aforesaid, did unlawfully and injuriously keep out, and still do keep out, to the great Damage of the saïd *R. F.* and against the Peace of our saïd Lord the King, his Crown and Dignity.

For a Forcible Entry and Detainer, upon the Statutes.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *E. C.* late of the Parish of *Kensington*, in the County of *Middlesex*, Gentleman, on the first Day of *April*, in the first Year of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. was possessed of a certain Messuage, with the Appurtenances, situate, lying, and being in *Church Lane*, in the Parish of *Kensington* aforesaid, in the County aforesaid, for a certain Term of Years, then and still to come, and unexpired, and being so possessed thereof, one *S. R.* late of the same Parish of *Kensington*, in the saïd County of *Middlesex*, Baker, afterwards, to wit, the saïd first Day of *April*, in the Year aforesaid, into the saïd Messuage, with the Appurtenances aforesaid, in *Church-Lane*, in the Parish and County aforesaid, with Force and Arms, and with strong Hand, unlawfully did enter, and the saïd *E. C.* from the peaceable Possession of the saïd Messuage, with the Appurtenances

S

258 Precedents of Indictments, &c.

nances aforesaid, then and there, with Force and Arms, and with strong Hand, unlawfully did expel and put out; and the said *E. C.* from the Possession thereof, so as aforesaid, with Force and Arms, and with strong Hand, being unlawfully expelled and put out, the said *S. R.* him the said *E. C.* from the aforesaid first Day of *April*, in the Year aforesaid, until the Day of the taking this Inquisition, from the Possession of the said Messuage, with the Appurtenances aforesaid, with Force and Arms, and with strong Hand, unlawfully and injuriously then and there did keep out, and still doth keep out, to the great Damage of the said *E. C.* and against the Form of the Statute in that Case made and provided.

When one or more Persons, furnished with unusual Weapons, violently enter into the House or Land of another, or use threatening Words, and by that Means gain the Possession, or if they enter peaceably, and then forcibly put another out of his Possession, &c. these are forcible Entries, punishable by Law. If one enter the House of another, without his Consent, although the Door be open, yet this is a forcible Entry, if he detains the Possession.

It is enacted by Stat. 5 Ric. 2. c. 7. in the following Words; And also the King defendeth, That none from henceforth make any Entry into any Lands and Tenements, but in case where Entry is given by the Law; and in such case, not with strong Hand, nor with Multitude of People, but only in peaceable and easy Manner. And if any Man from henceforth do to the contrary, and thereof be duly convicted, he shall be punished by Imprisonment of his Body, and thereof ransomed at the King's Will.

By

FORCIBLE ENTRY. 259

By the above Statute no Provision is made against forcible Detainer, therefore it is enacted by Stat. 15 Ric. 2. c. 2. *That the said Statute, and all others made against forcible Entries, &c. shall be fully executed; and further, That at all Times that such forcible Entries shall be made, and Complaint thereof cometh to the Justices of the Peace, or to any of them, that the same Justices or Justice take sufficient Power of the County, and go to the Place where the Force is made; and if they find any that hold such Place forcibly, after such Entry made, they shall be taken and put into the next Gaol, there to abide convict, by the Record of the same Justices or Justice, until they have made Fine and Ransom to the King. And that all the People of the County, as well the Sheriff as others, shall be attendant upon the same Justices, to go and assist the same Justices, to arrest such Offenders, upon Pain of Imprisonment, and to make Fine to the King. And in the same Manner it shall be done of them that make such forcible Entries in Benefices, or Offices of Holy Church.*

By Stat. 8 H. 6. c. 9. *when forcible Entry is committed, Justices of the Peace are to view the Place, and enquire of the Force, by a Jury summoned by the Sheriff; and cause the Tenements to be seized and restored, and imprison the Offenders till they pay a Fine, &c.*

By Stat. 31 Eliz. c. 11. *No Restitution upon any Indictment of forcible Entry, or holding with Force, shall be made to any Person, if the Person so indicted, hath had the Occupation, or been in quiet Possession, for the Space of three whole Years together, next before the Day of such Indictment, so found, and his Estate therein not ended; which the Party indicted may alledge for Stay of Restitution, and Restitution to stay till that be tried, if the other will deny or traverse the same: And if the same Allegation be tried against the same Person so indicted, he is to pay such*

260 **Precedents of Indictments, &c.**

Costs and Damages to the other Party, as shall be assessed by the Judges or Justices, before whom the same shall be tried; the same Costs and Damages to be recovered and levied, as is usual for Costs and Damages contained in Judgments upon other Actions.

3 Salk. 170. Since the Stat. 5 R. 2. If a Man having good Right to enter on Lands, doth it forcibly, he may be indicted. Where there is a forcible Entry and Detainer, there may be Restitution; but not for a forcible Detainer: The Justices on forcible Detainer may punish the Force upon View, and Fine and Imprison the Offenders; though they cannot meddle with the Possession.

1 Ventr. 23.

1 Sid. 97. 156.

FORESTALLERS, REGRATORS, and IN-GROSSERS.

An Indictment for forestalling the Market.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. B.* late of the Parish of *Fryan-Barnet*, in the County of *Middlesex*, Yeoman, on the eleventh Day of *August*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did buy, and cause to be bought, of and from one *T. H.* three hundred Pounds Weight of Cheese, for the Sum of three Pounds fifteen Shillings and Sixpence, of lawful Money of *Great Britain*, as he the said *T. H.* then and there was coming toward *London*, to wit, to a certain Market, called *Leaden-hall-Market*, in *London* aforesaid, to sell the said three hundred Pounds Weight of

Forestallers, Regrators, and Ingrossers. 261

of Cheefe; and before the same was brought into the said Market, where the same should be sold, in Contempt of our said Lord the King and his Laws, to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute, in that Case made and provided.

By Stat. 5 and 6 Ed. 6. c. 14. *A Forestaller is one who buys or causes to be bought, any Merchandise, Victual, or any other Things whatsoever, coming by Land or by Water, towards any Market or Fair to be sold in the same, or coming toward any City, Port, Haven, Creek, or Road of this Realm, or Wales, from any Parts beyond the Sea to be sold, or makes any Bargain, Contract, or Promise, for the having or buying of the same, or any Part thereof, so coming as is aforesaid, before the said Merchandise, Victuals or other Things shall be in the Market, Fair, City, Port, Haven, Creek, or Road, ready to be sold: or shall make any Motion by Word, Letter, Message or otherwise, to any Person or Persons, for the enhaunfing of the Price, or dearer selling of any Thing or Things abovementioned, or else dissuade, move, or stir any Person or Persons, coming to the Market or Fair, to abstain or forbear to bring or convey any of the Things above rehearsed, to any Market, Fair, &c. to be sold, as is aforesaid.*

*That the buying of any Barley, Bigge, or Oats, as any Person, (not Fore-
stalling) shall buy to convert into Malt
or Oatmeal in his own House, and so
shall be converted indeed, shall not be
taken to be within the said Act of 5 and*

Persons and
Things except-
ed out of the
Act of Forestal-
ling.

*6 Ed. 6. c. 14. Purveyors of any City, or Town
Corporate, &c. Fishmongers, Butchers, or Poulterers
that buy any Victual as concern his own Faculty, Craft,*

262 Precedents of Indictments, &c.

or Mystery, otherwise than by Forestalling, who shall sell the same again upon any reasonable Prices by Retail; or the buying of any Wine, or any other dead Viſtual by any Innholder, or other Viſtualler, to sell the same by Retail within his House, or to any of his Neighbours, for reasonable Prices, shall not be deemed any Offence contrary to the said Act.

Notwithstanding this Exception, it hath been resolved, that any of the Persons therein mentioned may be indicted for ingrossing Viſtuals, with an Intent to sell them again, against the Form of the Statute: for it shall be intended that they ingrossed, and did not sell at reasonable Prices.

At common Law, Persons guilty of Forestalling, upon Indictment found, are liable to Fine and Imprisonment, answerable to their Offence.

Cro. Car. 314.
1 Rol. Rep. 11.
12.
1 Jon. 320.

H. P. C. 152.
1. Hawk. 235.

Against a Regrator.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *S. A.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Yeoman, on the first Day of *March*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, to wit, in a certain Market there called *Brook's-Market*, did obtain and get into his Hands and Possession, ten Geese, thirty Ducks, and eighteen Drakes, of and from one *E. C.* for the Sum of four Pounds and nine Shillings, of lawful Money of *Great Britain*, (the said Geese, Ducks, and Drakes, then being brought to the said Market, by the said *E. C.* to be sold) and afterwards, to wit, on the same first Day of *March*, in the Year aforesaid, he the said *S. A.* at the Parish aforesaid,

Forestallers, Regrators, and Ingrossers. 263

aforesaid, in the County aforesaid, in the said Market there, called *Brook's Market*, unlawfully did regrade the said Geese, Ducks, and Drakes, and sell the same again to one *W. S.* for the Sum of five Pounds, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in that Case made and provided.

By the Stat. 5 and 6 Ed. 6. c. 14. *Regrators are those that shall by any Means regrade, obtain, or get into his or their Hands or Possession, in any Fair or Market, any Corn, Wine, Fish, Butter, Cheese, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geese, Capons, Hens, Chickens, Pigeons, Conies, or other dead Victual whatsoever, that shall be brought to any Fair or Market within this Realm or Wales, to be sold, and do sell the same again in any Fair or Market, holden or kept in the same Place, or in any other Fair or Market within four Miles thereof.*

Against an Ingrosser.

Shropshire. **T**HE Jurors for our Lord the King upon their Oath present, That *H. M.* late of the Parish of *Ofwestry*, in the County of *Salop*, Yeoman, on the ninth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did engross and get into his Hands, by buying of and from one *R. G.* fifty Quarters of Wheat, to the Intent to sell the same again, to the evil Example of all others in the like Case offending, against the Peace of our said Lord the King, his

264 **Precedents of Indictments, &c.**

Crown and Dignity, and also against the Form of the Statute, in that Case made and provided.

By the Stat. 5 and 6 Ed. 6. c. 14. *An Ingrosser is he who shall get into his Hands, by buying, contracting, or promise taking, other than by Demise, Grant, or Lease of Land or Tithe, any Corn growing in the Fields, or any other Corn or Grain, Butter, Cheese, Fish, or other dead Viſtuals whatſoever, within the Realm of England, to the Intent to ſell the ſame again, ſhall be accepted, reputed, and taken an unlawful Ingroſſer or Ingroſſers.*

Foreſtallers, Regrators and Ingroſſers are to be puniſhed as followeth: For the firſt Offence, to be impriſoned by the Space of two Months without Bail, and to forfeit the Value of the Goods, &c. ſo by him or them bought or had; for the ſecond Offence, double the Value of the Goods, and Impriſonment for half a Year; for the third Offence, the Offender to be ſet on the Pillory, and loſe all the Goods, &c. he hath to his own own Uſe, and alſo to be committed to Priſon during the King's Pleaſure, 5 and 6 Ed. 6. cap. 14.

Offender to be proſecuted within two Years after the Offence.

Stat. 5 and 6 Ed. 6. t. 14. made perpetual by Stat. 13 Eliz. c. 25. and enacted by the ſame Statute, *That the Act againſt Regrators, &c. ſhall not extend to any Wines, Oils, Sugars, Spices, Currants, nor other foreign Viſtuals brought into this Realm from beyond the Seas, Fiſh and Salt only excepted.*

FORGERY.

F O R G E R Y.

For forging a Writ of Fieri Facias, and thereby taking a Person's Goods in Execution.

Salop. **T**HE Jurors for our Lord the King upon their Oath present, That *L. Y.* late of the Parish of *Whitchurch*, in the County of *Salop*, Gentleman, falsely, unlawfully, and wickedly devising, contriving, and intending one *A. K.* late of the same Parish and County, Yeoman, unjustly, maliciously, and injuriously to aggrieve, oppress and impoverish, on the eighteenth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at *Whitchurch* aforesaid, in the County aforesaid, of the wicked Mind, Invention, and Imagination of him the said *L. Y.* unlawfully, knowingly, subtilly, and falsely did forge and counterfeited a certain Writing engrossed on Parchment, in Form and to the Likeness and Similitude of a Writ of our Lord the King of *Fieri facias*, and purporting to be a Writ of our said Lord the King, of *Fieri facias*, issuing out of the Court of our said Lord the King of *Common Pleas*, at *Westminster*, in the County of *Middlesex*; and directed to the then Sheriff of *Salop*, by which it was commanded to the same Sheriff, that he should cause to be made of the Goods and Chattels of the said *A. K.* as well a certain Debt of forty Pounds, recovered by the said *L. Y.* in the said Court of our said Lord the King of *Common Pleas* against the said *A. K.* as thirteen Pounds sixteen Shillings and eight Pence, for Damages, which the said *L. Y.* had sustained on Occasion of detaining of that Debt; and that the same Sheriff should have that Money before
the

the Justices of our said Lord the King, of *Common Pleas* aforesaid, at *Westminster* aforesaid, from the Day of the *Holy Trinity*, in three Weeks then next following, to render to the aforesaid *L. Y.* the Debt and Damages aforesaid. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *L. Y.* of the wicked Mind, Invention and Imagination of him the said *L.* afterward, to wit, on the twenty-ninth Day of the said Month of *June*, in the first Year aforesaid, at *Whitchurch* aforesaid, in the said County of *Salop*, the said false, forged, and counterfeit Writing, falsely forged, purporting to be a Writ of *Fieri facias*, subtilly, falsely, knowingly, and deceitfully did pronounce and publish, and that then and there, to wit, the same twenty-ninth Day of *June*, in the first Year aforesaid, at *Whitchurch* aforesaid, in the County of *Salop* aforesaid, subtilly, falsely, knowingly, and deceitfully, as a true Writ of our said Lord the King, of *Fieri facias*, did cause to be delivered to the then Sheriff of *Salop*, for Execution to be made thereof, and afterward, to wit, on the thirtieth Day of the same Month of *June*, at *Whitchurch* aforesaid, in the County of *Salop* aforesaid, did cause to be made, diverse Goods and Chattels of the said *A. K.* by Pretence of that Writ. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *L. Y.* on the twenty-ninth Day of *June*, in the first Year aforesaid, at *Whitchurch* aforesaid, in the County of *Salop* aforesaid, of the wicked Mind, Invention, and Imagination of the said *L. Y.* a certain false and counterfeit Writing, engrossed on Parchment, falsely forged, in Form and to the Likeness and Similitude of a Writ of our said Lord the King, of *Fieri facias*, issuing out of the said Court of our said Lord the King, of *Common Pleas*, and directed to the then Sheriff of *Salop*, by which it was commanded to the same Sheriff, that he should
cause

cause to be made, of the Goods and Chattels of the said *A. K.* as well a certain Debt of forty Pounds, recovered by the said *L. Y.* in the said Court of our said Lord the King of *Common Pleas*, against the said *A. K.* as thirteen Pounds sixteen Shillings and Eight-Pence, for Damages which the said *L.* had sustained, on Occasion of detaining of that Debt, and that the same Sheriff should have that Money before the Justices of our said Lord the King, of *Common Pleas* aforesaid, at *Westminster* aforesaid, from the Day of the *Holy Trinity*, in three Weeks then next following, to render to the aforesaid *L. Y.* the Debt and Damages aforesaid, (he the said *L. Y.* then, to wit, the same twenty-ninth Day of *June*, and before, well and surely knowing that false and counterfeit Writ to be falsely forged) unlawfully, knowingly, subtilly and deceitfully, as a true Writ of our said Lord the King, of *Fieri facias*, did pronounce and publish, and that Writ, as a true Writ of our said Lord the King, of *Fieri facias*, then and there, to wit, the said thirtieth Day of *June*, in the first Year aforesaid, at *Whitchurch* aforesaid, in the County of *Salop* aforesaid, subtilly, falsely, knowingly and deceitfully, did cause to be delivered to the then Sheriff of *Salop*, for Execution to be made thereof; and afterward, to wit, on the same thirtieth Day of *June*, in the Year aforesaid, did cause to be made, diverse Goods and Chattels of the said *A. K.* by Virtue of that Writ, to the great Damage and Oppression of the said *A. K.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

The Defendant was convicted on this Indictment, at the Assizes holden at Shrewsbury, and was fined One hundred Pounds, and ordered to be put in the Pillory.

For

*For forging an Indenture of Bargain and Sale,
and a Release of another's Freehold Estate,
in Right of his Wife upon Stat. 5 Eliz.
c. 14.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. G. Gent. and E. his Wife*, in Right of her the said *E.* on the twenty-first Day of *September*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* and long before, was seised in his Demesne, as of Fee of, and in certain Messuages, Lands, and Tenements, called *Jarwick*, with their Appurtenances, in the Parish of *Clackton*, in the County of *Essex*, and that *J. C.* late of *London*, Merchant, being a Person of evil Fame, and of a wicked Disposition, and contriving and intending the said *J. G. and E.* his Wife, unjustly to aggrieve, and with an Intent that the State of Freehold, of them the said *J. and E. G.* of and in the said Lands, Tenements and Hereditaments, called *Jarwick*, in the the Parish of *Clackton*, in the County of *Essex* aforesaid, and the Right, Title, and Interest of the said *J. and E.* of and in the same, should be molested and troubled, afterwards, to wit, on the said twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, at the Parish of *St. Dunstan* in the *West*, in the County of *Middlesex*, upon his own Head and Imagination, with Force and Arms, &c. knowingly, subtilly, and falsely, did forge and make, and cause to be forged and made, on false Writing sealed, purporting to be sealed and delivered by the said *J. G. and E.* and in itself purporting to be an Indenture of Bargain and Sale for one Year, and to bear Date the said twenty-first Day of *September*,

tember, in the said first Year of our said now Lord the King, and supposed to be made between them the said *J.* and *E.* by the Names of *J. G.* of the City of *Gloucester*, Gentleman, and *E.* his Wife, of the one Part, and the aforesaid *J.* by the Name of *J. C.* of *London*, Merchant, of the other Part: In which said Indenture is mentioned and supposed, among other Things, That for and in Consideration of the Sum of five Shillings of lawful Money of *Great Britain*, to the said *J. G.* and *E.* his Wife, in Hand paid by the said *J. C.* at or before the Sealing and Delivering of the same Indenture, the Receipt whereof the said *J. G.* and *E.* his Wife thereby are mentioned to have acknowledged, they the said *J. G.* and *E.* his Wife, had granted, bargained and sold, and by the same Indenture have granted, bargained and sold, unto the said *J. C.* all that Park commonly called, or known by the Name of *Jawick Park*, in the Parish of *Clackton*, in the County of *Essex*, being about eight Miles in Circumference, and containing, by Estimation, four Thousand Acres or thereabouts, or more or less, or by whatever other Name or Names, Quantity or Quantities, or otherwise the said thereby bargained and sold Premises, or any Part thereof were, or was, or had been reputed, called, known or distinguished; together with the Trees, Woods, Underwoods, Deer, Commons, Ways, Rights, Privileges, Royalties, Members, Hereditaments, Emoluments, and Appurtenances whatsoever to the same belonging, or in any wise appertaining, and the Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits thereof, to have and to hold the said Park, Trees, Woods, Underwoods, Deer, Hereditaments, and Appurtenances thereby bargained and sold, or meant, mentioned, or intended so to be, and every Part thereof, unto the said *J. C.* his Executors, Administrators, and Assigns,

signs, from the Day next before the Day of the Date of the same Indenture, for and during, and until the full End and Term of one whole Year, from thence next following, and fully to be compleat and ended, yielding and paying therefore upon the last Day of the said Term thereby granted, the Rent of one Pepper Corn, if the same should be lawfully demanded, to the Intent and Purpose, that by Virtue thereof, and of the Statute for transferring of Uses into Possession, the said *J. C.* might be in actual Possession of all and singular the said Premises thereby granted, bargained, and sold, or meant, or intended so to be, and thereby might be enabled to receive and take the Grant and Release, Reversion and Inheritance thereof, to the Use of himself, his Heirs and Assigns for ever; to the great Damage of the said *J. G.* and *E.* his Wife, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. C.* contriving and intending the said *J. G.* and *E.* his Wife as aforesaid, unjustly to aggrieve, and with the said Intent, that the State of Freehold of them the said *J.* and *E.* in Right of the said *E.* of and in the said Lands, Tenements, and Hereditaments, and the Right, Title, and Interest of them the said *J.* and *E.* of and in the same, should be molested and troubled, on the said twenty-first Day of *September*, in the first Year of the Reign of our said now Lord the King, at the Parish of *St. Dunstan* in the *West* aforesaid, in the County of *Middlesex* aforesaid, upon his own Head and Imagination, with Force and Arms, &c. knowingly, subtilly, and falsly did forge and make, and cause to be forged and made, one other false Writing, sealed, in itself purporting to be an Indenture of Release,

Release, and to bear Date on the twenty-second Day of *September*, in the said first Year of the Reign of our said now Lord the King, and supposed to be made between them the said *J. C.* and *E.* his Wife, by the Names of *J. G.* of the City of *Gloucester*, Gent. and *E.* his Wife, of the one Part, and the said *J.* by Name of *J. C.* of *London*, Merchant, of the other Part, in which said Indenture of Release is mentioned and supposed (among other Things) that for and in Consideration of the Sum of four thousand and five hundred Pounds of lawful Money of *Great Britain*, to the said *J. G.* and *E.* his Wife, in Hand paid by the said *J. C.* at and before the Sealing and Delivery of the said Indenture of Release, the Receipt and Payment whereof the said *J. G.* and *E.* his Wife, by the same Indenture of Release are mentioned to have acknowledged, and of the same and every Part thereof to have acquitted, exonerated, and discharged the said *J. C.* his Heirs, Executors, Administrators, and Assigns, and every of them thereby, they the said *J. G.* and *E.* his Wife had granted, bargained, sold, aliened, released, and confirmed, and by the same Indenture of Release have granted, bargained, sold, aliened, released, and confirmed to the said *J. C.* as by the same Indenture is supposed (in his actual Possession, then being by Virtue of a Bargain and Sale to him thereof made and granted by the said *J. G.* and *E.* his Wife, in Consideration of five Shillings, by Indenture bearing Date the Day next before the Day of the Date of the same Indenture of Release, for one whole Year, to begin from the Day next before the Day of the Date of the said Indenture of Bargain and Sale, and mentioned to be executed before the supposed Sealing and Delivery of the same Indenture of Release, and by Force of the Statute for transferring Uses into Possession) to his Heirs and Assigns for ever, all that Park, and com-

I

monly

monly called or known by the Name of *Jawick* Park, in the Parish of *Clackton*, in the County of *Essex*, being about eight Miles in Circumference, and containing by Estimation four thousand Acres or thereabouts, or more or less, or by whatsoever Name or Names, Quantity or Quantities the said thereby granted and released Premisses, or any Part thereof, were, was, or had been reputed, called, known, or distinguished, together with the Trees, Woods, Underwoods, Deer, Commons, Ways, Rights, Privileges, Royalties, Members, Hereditaments, Emoluments, and Appurtenances whatsoever to the same belonging, or in any wise appertaining; and the Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits thereof, and all the Estate, Right, Title, Interest, Use, Trust, Possession, Freehold, Inheritance, Property, Claim, and Demand whatsoever, as well in Law as in Equity, of them the said *J. G.* and *E.* his Wife, of, in, to, or out of the said Park and Premisses, and every Part and Parcel thereof; and also all Deeds, Evidences, Minutments, Escripts, and Writings belonging, touching, or in any wise concerning the same Lands, Hereditaments, and Premisses, or any Part thereof, to have and to hold the said Park, Trees, Woods, Underwoods, Deer, Hereditaments, and Appurtenances thereby granted and released, or meant, mentioned, or intended so to be, and every Part thereof, to the said *J. C.* his Heirs and Assigns, and to the only proper Use, Benefit, and Behoof of the said *J. C.* and his Heirs and Assigns, to the great Damage of the said *J. G.* and *E.* his Wife, to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and also against the Peace of our said now Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath

Oath aforesaid, do further present, That the said *J. C.* being a Person of Evil Name and Fame, and wicked Disposition, and contriving and intending the said *J. G.* Gentleman, and *E.* his Wife, unjustly to aggrieve, and with an Intent that the State of Freehold of them the said *J.* and *E. G.* in Right of the said *E.* of and in certain Lands, Tenements, and Hereditaments, called *Jarwick*, in the Parish of *Clackton*, herein before mentioned, in the County of *Essex*, and the Right, Title, and Interest of the said *J.* and *E.* of and in the same, should be molested and troubled, on the said twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, at the said Parish of *St. Dunstan* in the *West*, in the County of *Middlesex*, aforesaid, with Force and Arms, &c. falsely did pronounce and publish one false, forged Writing sealed, purporting to be sealed and delivered by the said *J. G.* and *E.* his Wife, as a true Writing, he the said *J. C.* knowing that Writing to be a false, forged and counterfeited Writing, the same Writing in itself purporting to be an Indenture of Bargain and Sale for one Year, and to bear Date on the twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, and to be made between the said *J.* and *E.* by the Names of *J. G.* of the City of *Gloucester*, Gentleman, and *E.* his Wife, of the one Part, and the said *J. C.* by the Name of *J. C.* of *London*, Merchant, of the other Part; in which same Indenture of Bargain and Sale last mentioned, is mentioned and supposed (among other Things) that for and in Consideration of the Sum of five Shillings lawful Money of *Great Britain*, to the said *J. G.* and *E.* his Wife, in Hand paid by the said *J. C.* at or before the Sealing and Delivery of the same Indenture, the Receipt whereof the said *J. G.* and *E.* his Wife, thereby are mentioned to

T

have

have acknowledged, they the said *J. G.* and *E.* his Wife had granted, bargained, and sold, and by the same Indenture have granted, bargained, and sold to the said *J. C.* all that Park commonly called or known by the Name of *Jawick Park*, in the Parish of *Clackton*, in the County of *Essex*, being about eight Miles in Circumference, and containing, by Estimation, four thousand Acres or thereabouts, or more or less, or by whatever other Name or Names, Quantity or Quantities, or otherwise the said thereby bargained and sold Premises, or any Part thereof, were, or was, or had been reputed, called, known, or distinguished, together with the Trees, Woods, Underwoods, Deer, Commons, Ways, Rights, Privileges, Royalties, Members, Hereditaments, Emoluments, and Appurtenances whatsoever to the same belonging, or in any wise appertaining, and the Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits thereof, to have and to hold the said Park, Trees, Woods, Underwoods, Deer, Hereditaments, and Appurtenances thereby bargained and sold, or meant, mentioned, or intended so to be, and every Part thereof, to the said *J. C.* his Executors, Administrators, and Assigns, from the Day next before the Day of the Date of the same Indenture of Bargain and Sale last mentioned, for and during, and until the full End and Term of one whole Year, from thence next ensuing, and fully to be compleat and ended, yielding and paying therefore, upon the last Day of the said Term thereby granted, the Rent of one Pepper Corn, if the same should be lawfully demanded, to the Intent and Purpose, that by Virtue thereof, and of the Statute for transferring Uses into Possession, the said *J. C.* might be in actual Possession of all and singular the said Premises thereby granted, bargained, and sold, or meant or intended so to be, and thereby might be enabled to accept and take the Grant and Release,

lease, Reversion, and Inheritance thereof to the Use of himself, his Heirs and Assigns for ever (he the said J. C. at the said Time, that he the said J. as aforesaid, did publish and pronounce the said false, forged Writing, as a true Writing, well knowing that Writing to be falsely forged) to the great Damage of the said J. G. and E. his Wife, to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and against the Peace of our said now Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said J. C. contriving and intending the said J. G. and E. his Wife as aforesaid, unjustly to aggrieve, and with the aforesaid Intent, that the said State of Freehold of them the said J. and E. in Right of the said E. of and in the Lands, Tenements, and Hereditaments last mentioned, and the Right, Title, and Interest of the said J. and E. in the same should be molested and troubled, on the said twenty-first Day of *September*, in the said first Year of the Reign of our said now Lord the King, at the Parish of *St. Dunstan* in the *West* aforesaid, in the County of *Middlesex* aforesaid, with Force and Arms, &c. falsely did pronounce and publish one false, forged Writing sealed, he the said J. C. knowing that Writing to be a false, forged and counterfeited Writing, the same Writing in itself, purporting to be an Indenture of Release, and to bear Date the twenty-second Day of *September*, in the said first Year of the Reign of our said now Lord the King, and to be made between them the said J. G. and E. his Wife, by the Names of J. G. of the City of *Gloucester*, Gentleman, and E. his Wife, of the one Part, and the said J. by the Name of J. C. of *London*, Merchant, of the other Part, in which said Indenture of Release is mentioned, and sup-

posed (among other Things) that for and in Consideration of the Sum of four thousand and five hundred Pounds, of lawful Money of *Great Britain*, to the said *J. G.* and *E.* his Wife in Hand paid, by the said *J. C.* at and before the Sealing and Delivery of the same Indenture of Release last mentioned, the Receipt and Payment whereof the said *J. G.* and *E.* his Wife, by the same Indenture of Release are mentioned to have acknowledged, and of the same and every Part thereof, to have acquitted, exonerated, and discharged the said *J. C.* his Heirs, Executors, Administrators, and Assigns, and every of them thereby, they the said *J. G.* and *E.* his Wife had granted, bargained, sold, aliened, released, and confirmed, and by the same Indenture have granted, bargained, sold, aliened, released, and confirmed to the said *J. C.* as by the same Indenture is supposed (in his actual Possession then being, by Virtue of a Bargain and Sale to him thereof granted by the said *J. G.* and *E.* his Wife, in Consideration of five Shillings, by Indenture bearing Date the Day next before the Day of the Date of the said last mentioned Indenture of Release, for one whole Year, to begin from the Day next before the Day of the Date of the same Indenture of Bargain and Sale last mentioned, and mentioned to be executed before the supposed Sealing and Delivering of the last mentioned Indenture of Release, and by Force of the Statute for transferring Uses into Possession) and to his Heirs and Assigns for ever, all that Park, commonly called or known by the Name of *Jawick Park*, in the Parish of *Clackton*, in the County of *Essex*, being about eight Miles in Circumference, and containing by Estimation four thousand Acres, or thereabouts, or more or less, or by whatever other Name or Names, Quantity or Quantities, the said thereby granted and released Premises, or any Part thereof

thereof were, was, or had been reputed, called, known, or distinguished, together with the Trees, Woods, Underwoods, Deer, Commons, Ways, Rights, Privileges, Royalties, Members, Hereditaments, Emoluments, and Appurtenances whatsoever to the same belonging, or in any wise appertaining, and the Reversion and Reversions, Remainder and Remainders, Rents, Issues, and Profits thereof, and all the Estate, Right, Title, Interest, Use, Trust, Possession, Freehold, Inheritance, Property, Claim, and Demand whatsoever, as well in Law as Equity, of them the said J. G. and E. his Wife, of, in, to, or out of the said Park and Premises, and every Part and Parcel thereof; and also all Deeds, Evidences, Minutments, Escripts, and Writings touching, or in any wise concerning the same Lands, Hereditaments, and Premises, or any Part thereof, to have and to hold the said Park, Trees, Woods, Underwoods, Deer, Hereditaments, and Appurtenances thereby granted and released, or meant, mentioned, or intended so to be, and of every Part thereof to the said J. C. and his Heirs and Assigns, and to the only proper Use, Benefit, and Behoof of the said J. C. and his Heirs and Assigns (he the said J. C. at the said Time, that he the said J. published and pronounced the said last mentioned false and forged Writing in Form aforesaid, as a true Writing, well knowing that Writing to be falsely forged) to the great Damage of the said J. G. and E. his Wife, to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and also against the Peace of our said now Lord the King, his Crown and Dignity.

Upon the above Indictment, the Defendant C. was tried in his Majesty's Court of King's-Bench at Westminster,

278 *Precedents of Indictments, &c.*

minster, before the Lord Chief Justice R. and was convicted thereof. Sometime afterwards, the said Defendant, by his Council, moved in Arrest of Judgment, when several Exceptions were taking to the Indictment, but the Court over-ruled them, and proceeded to give Judgment against the said Defendant, pursuant to the Directions of the Stat. 5th Eliz. c. 14. which Sentence was executed on the said Defendant at Charing-Cross, by the common Hangman, and the Defendant was imprisoned in the King's-Bench Prison during his Life.

Forgery is of two Kinds } 1. By Common Law,
2. By Statute.

By Common Law it seems to be an Offence in falsely and fraudulently making or altering any Matter of Record, or any other authentick Matter of a publick Nature, as a Parish Register, or any Deed or Will.

For the better understanding whereof, it is to be considered,

1. In what Cases the making or altering of a Writing shall be said to be so far false and fraudulent, as to amount to Forgery.

2. That a Man may be guilty of Forgery in respect of all the above mentioned Writings.

As to the first Particular, it is said to be possible for a Man knowingly to make a Deed in his own Name, and also to sign and seal it himself, which yet, in Judgment of Law, may be no better than a downright Forgery; as if a Man makes a Feoffment of certain Lands to A. T. and afterwards makes a Feoffment of the same Lands to N. H. of a prior Date, in which Case he is said to be guilty of Forgery, because
 3 Inst. 169.
 Pult. 46.
 27 H. 6. 3.

he knowingly falsifies the Date, in Order to defraud his own Feoffee, by making a second Conveyance, which, at the Time, he had no Power to make. Also it is said, that his Crime would have been no less, if by his Conveyance he had passed only an equitable Interest for good Consideration, and had afterwards, by such a subsequent ante-dated Conveyance, endeavoured to avoid it. Also in many other Cases, a Writing may be said to be forged where neither the Hand nor Seal of any one are forged; as where one being directed to draw up a Will for a sick Person, doth insert some Legacies therein of his own Head; or, where one finding another's Name at the Bottom of a Letter, at a Distance from the other Writing, causes the Letter to be cut off, and a General Release to be Written above the Name, and then takes off the Seal, and fixes it under the Release, or where one inserts into an Indictment the Names of those against whom, in Truth, it was not found; or where one makes any fraudulent Alteration of the Form of a true Deed, in a material Part of it, as by making a Lease of the Manor of Dale appear to be a Lease of the Manor of Sale, by changing the Letter D into an S; as by making a Bond for five hundred Pounds, expressed in Figures, seem to have been made for five Thousand by adding a new Cypher. But Sir Edward Coke seems to say, that a Deed so altered may more properly be called a false than forged Writing, because it is not forged in the Name of another, nor his Seal nor Hand counterfeited. But, no good Reason, why such an Alteration of a Deed should not as properly be called Forgery, as the entire making of a new Deed in another's Name; for in both Cases, not only the Fraud and Villainy are

Moore 655.

Noy 101.

Moor. 759, 760.

3 Inst. 171.

3 Mod. 66.

3 In. 169.

Moore 619.

3 Inst. 169.

Vid. Moore 619.

3 Mod. 66.

280 **Precedents of Indictments, &c.**

the same, but also a Man's Hand and Seal are falsly made Use of, to testify his Assent to an Instrument, which, after such an Alteration, is no more his Deed, than a Stranger's. The Notion of

Vide 2 Rol. Ab.

28, 29.

11 Co. 27,

Forgery doth not seem so much to consist in the counterfeiting a Man's Hand and Seal, which may often be done innocently, but in endeavouring to give an Appearance of Truth to a mere Deceit and Falsity, and either to impose that upon the World, as the solemn Act of another, which he is no way privy to; or, at least, to make a Man's own Act appear to have been done at a Time when it was not done, and by Force of such a Falsity, to give it an Operation which in Truth and Justice it ought not to have, as appears by the foregoing Cases, to most of which Sir Edward Coke seems to agree.

Pult. 46 21 H.

6. 46. Moore

619. Noy 99.

Salk. 375.

He who writes a Deed in another's Name, and seals it in his Presence, and by his Command, is not guilty of Forgery; the Law looks on this as the other's own Sealing.

He is not punishable for Forgery, who razeth the Word Pounds out of a Bond made to himself and putteth in Marks; because there's no Appearance of a fraudulent Design to cheat another, and the Alteration is prejudicial to none but to him who makes it, whose Security for his Money is wholly avoided by it; yet it is said, that it would be Forgery, if by the Circumstances of the Case, it should any Way appear to have been done with an Eye of gaining an Advantage to the Party himself, or of prejudicing a third Person; also it is holden, that such an Alteration, even without these Circumstances, is a Misdemeanor, though it be no Forgery.

It hath been resolved, that a Man shall not be adjudged guilty of Forgery for writing a Will for another,

ther, without any Directions from him, who becomes Non compos before it is brought to him; for it is not the bare writing Moore, 760. an Instrument in another's Name without his Privy, but the giving it a false Appearance of having been executed by him, which makes a Man guilty of Forgery.

Regularly a Man cannot commit an Act of Forgery by a bare Nonfeasance, as by omitting a Legacy out of a Will which he is directed to draw for another; Yet it hath been holden by some, even in this Case, that if the Omission of a Moore, 760. Bequest to one, cause a material Alteration in the Limitation of a Bequest to another, as where the Omission of a Devise of an Estate for Life to one Man, causeth a Devise of the same Lands to another, to pass a present Estate, which otherwise would have passed a Remainder only, he, who makes such an Omission, is guilty of Forgery. Noy, 101,

It seemeth no Way material whether a forged Instrument be made in such a Manner, that if it were in Truth, such as it is counterfeited for, it would be of Validity, or not; and upon this Ground it hath been adjudged, that 1 Sid. 142. the Forgery of any Protection in the Name of A. B. as being a Member of Parliament, who, in Truth, at the time, was not a Member of Parliament, is as much a Crime, as if he were.

To shew that a Man may be guilty of Forgery at Common Law, in Respect of any of the above mentioned Writings, and no other.

It is clear, that one may be guilty thereof by the Common Law, by counterfeiting a Matter of Record, for since the Law gives the highest Credit to all Records, it cannot be but of the utmost ill Consequence to the Publick, to have them either forged or falsified.

1 Roll. Ab. 65.
Yel. 146.
Cro. Eliz. 178.
3 Mod. 66.

Also

282 **Precedents of Indictments, &c.**

Also there seemeth to be no Doubt, but that one may be guilty of this Crime as by the Common Law, by forging any other authentick Matter of a publick

Nature, as a Privy Seal (a) or a Licence (b) from the Barons of Exchequer to compound a Debt, or a Certificate (c) of Holy Orders, or a Protection (d) from a Parliament Man.

(a) 1 Roll. Ab.
68. Pl. 33.

Cro. Ca. 326.

1 Jon. 325.

(b) 1 Rol. Ab.

65. Pl. 5.

2 Bul. 137.

(c) 1 Lev. 138.

(d) 1 Sid. 142.

(e) 1 Rol. Ab.

66. Pl. 10.

(f) Moore 760.

It is also unquestionable, that a Man may be in like Manner guilty of Forgery at Common Law by forging a Deed (e), and surely there cannot be any Reason or Doubt, but that one may be equally guilty by forging a Will (f) which cannot be thought to be of less

Consequence than a Deed.

As to Forgery by Statute Law; by the 5 Eliz. c. 14. Sec. 2. it is enacted, *That if any Person or Persons, upon his or their own Heads and Imagination, or by false Conspiracy and Fraud with others, shall wittingly, subtilly, and falsly forge or make, or subtilly cause or wittingly assent to be forged or made, any false Deed, Charter, or Writing sealed, Court Roll, or the Will of any Person or Persons, in Writing, to the Intent that the State of Freehold or Inheritance of any Person or Persons, of, in, or to any Lands, Tenements, or Hereditaments, Freehold or Copyhold, or the Right, Title or Interest of any Person or Persons, of, in, or to the same, or any of them, shall or may be molested, troubled, defeated, recovered or charged, or shall pronounce, publish, or shew forth in Evidence, any such false and forged Deed, Charter, Writing, Court-Roll, or Will, as true, knowing the same to be false and forged, as is aforesaid, to the Intent above remembered (except being an Attorney, Lawyer, or Councillor, he shall, for his Client, plead, shew forth, or give in Evidence such false and forged Deed, &c. to the forgering*

gering whereof he was not party or privy) and shall be thereof convicted, either upon Action or Actions of Forgery or false Deeds, to be founded upon the said Statute, at the Suit of the Party grieved, or otherwise, according to the Order and due Course of the Laws of this Realm, &c. shall pay unto the Party grieved, his double Costs and Damages; to be found or assessed in that Court where such Conviction shall be, and also shall be set upon the Pillory in some open Market Town, or other open Place, and there have both his Ears cut off, and also his Nostrils slit, and cut, and seared with a hot Iron, &c. and shall forfeit to the King the whole Issues and Profits of his Lands and Tenements, and suffer perpetual Imprisonment, &c.

And it is farther enacted by the said Statute, Sec. 3. That if any Person or Persons, upon his or their own Head or Imagination, or by false Conspiracy or Fraud had with any other, shall wittingly, subtilly, and falsly forge or make, or wittingly, subtilly, and falsly cause or assent to be made and forged, any false Charter, Deed, or Writing, to the Intent that any Person or Persons, shall or may have or claim any Estate or Interest for Term of Years, of, in, or to any Manors, Lands, Tenements, or Hereditaments not being Copyhold, or any Annuity in Fee-simple, Fee-tail, or for Term of Life, Lives, or Years, or shall, as is aforesaid, forge, make, or cause or assent to be made or forged, any Obligation or Bill Obligatory, or any Acquittance, Release, or other Discharge of any Debt, Accompt, Action, Suit, Demand, or other Thing personal; or shall pronounce, publish or give in Evidence (except, as is before excepted) any such false or forged Charter, Deed, Writing, Obligation, Bill Obligatory, Acquittance, Release, or Discharge, as true, knowing the same to be false and forged, and shall be thereof convicted by any of the Ways and Means aforesaid; he shall pay unto the Party grieved his double Costs and Damages, to be found and assessed in such Court
where

284 **Precedents of Indictments, &c.**

where the said Conviction shall be had, and shall be also set upon the Pillory in some open Market Town, or other open Place, and there have one of his Ears cut off, and also shall suffer Imprisonment for one Year, &c.

And it is further enacted by the said Statute, Sec. 7 and 8. *That if any Person or Persons, being convicted or condemned of any of the Offences aforesaid, by any the Ways and Means above-limited, shall, after any such his or their Conviction or Condemnation, estfoons, commit, or perpetrate any of the said Offences, in Form aforesaid, that then every such second Offence shall be adjudged Felony without Benefit of Clergy, saving to all Persons other than the said Offenders, and such as claim to their Uses, all such Rights, &c. which they shall have to any the Hereditaments of any such Person, so as is aforesaid, convicted or attainted, at any Time before, &c. saving also the Dower of such Offender's Wife, and the Right of his Heir.*

And it is further enacted by the said Statute, Sec. 10. *That all Justices of Oyer and Terminer, and Justices of Assise, shall have Power to enquire of, hear, and determine the Offences aforesaid.*

But it is provided, Sec. 9, 12 and 16. *That this Act, or any Thing therein contained, shall not extend to any Ordinary, or his Commissary, &c. for putting their Seal of Office to any Will to be exhibited unto them, not knowing the same to be false or forged, or for writing of the said Will, or prohibiting of the same, nor to any Proctor, &c. of any Ecclesiastical Court, for the writing, setting forth, or pleading of any Proxy made according to the Ecclesiastical Law, &c. for the Appearance of any Person, being cited to appear in such Court, nor to any Archdeacon or Official, for putting their authentick Seal to the said Proxy or Proxies, nor to any Ecclesiastical Judge, for omitting the same, nor to any Person who shall plead*

or

or shew forth any Deed or Writing, exemplified under the great Seal of England, or under the Seal of any other authentick Court of this Realm, nor to any Person who shall cause any Seal of any Court to be set to any such Deed, Charter, or Writing enrolled, not knowing the same to be false or forged.

See Stat. 2 Geo. 2. c. 25. 23 Geo. 2. c. 11.

An Indictment for forging a Bond and publishing the same.

Nottingham. **T**HE Jurors for our Lord the King, upon their Oath present, That *B. W.* late of Nottingham, in the County of Nottingham, Labourer, and *W. M.* late of the same, Labourer, after the twenty-ninth Day of June, in the Year of our Lord One thousand seven hundred and sixty-one, to wit, on the eighth Day of November, in the first Year of the Reign of our Sovereign Lord George the Third, now King of Great Britain, &c. with Force and Arms, at the Parish of Nottingham aforesaid, in the County aforesaid, feloniously did falsly make, forge, and counterfeit, and did cause and procure to be falsly made, forged, and counterfeited, a certain Bond, purporting to be signed by one *J. L.* (then deceased) in his Life-time, with the Mark of him the said *J. L.* and to be sealed and delivered by the said *J. L.* in his Life-time, the Tenor of which said Bond is as followeth; (*recite the Bond literatim*) “ *The Mark of J. + L. sealed and delivered upon treble Six-penny stamped Paper, in the* “ *Presence of the Mark of B. + W.*” *W. M.* with an Intent to defraud *W. B.* and *T. W.* Executors, of the last Will and Testament of the said *J. L.* of the Sum of two hundred and fifty Pounds, against the Form of the Statute in that Case made and provided,

286 **Precedents of Indictments, &c.**

provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the aforesaid *B. W.* and *W. M.* afterward, to wit, on the said eighth Day of *November*, in the said first Year of the Reign of our said Lord the King, at *Nottingham* aforesaid, in the County aforesaid, a certain false, forged, and counterfeit Bond, purporting to have been signed by the said *J. L.* (then deceased) in his Life-time, with his Mark, and to have been sealed and delivered by the said *J.* in his Life-time, with Force and Arms, feloniously did utter and publish, as a true Bond, which said Bond, so as aforesaid, falsely made and counterfeited, is in the Words and Figures following; (*recite the Bond again throughout literatim*) with an Intent to defraud the said *W. B.* and *T. W.* Executors of the last Will and Testament of the said *J. L.* of the said Sum of two hundred and fifty Pounds, (the said *B. W.* and *W. M.* at the Time of publishing of the said false, forged, and counterfeit Bond, by them as aforesaid, then and there well knowing, and each of them well knowing the said Bond to have been false, forged, and counterfeited) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 2 Geo. 2. c. 25. (made perpetual by the Stat. 9 Geo. 2. c. 18.) it is enacted, That if any Person, from and after the twenty-ninth Day of June, in the Year of our Lord One thousand seven hundred and twenty-nine, shall falsely make, forge, or counterfeit, or cause, or procure to be falsely made, forged, or counterfeited, or willingly act or assist in the false making, forging, or counterfeiting any Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissary

Promissary Note for Payment of any Money, Indorsement or Assignment of any Bill of Exchange, or Promissary Note for Payment of any Money, or an Acquittance or Receipt, either for Money or Goods, with Intention to defraud any Person whatsoever, or shall utter or publish, as true, any false, forged, or counterfeited Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissary Note for Payment of Money, Acquittance or Receipt, either for Money or Goods, with Intention to defraud any Person, knowing the same to be false, forged, or counterfeited, then every such Person being thereof lawfully convicted, according to the due Course of Law, shall be deemed guilty of Felony, and suffer Death as a Felon, without Benefit of Clergy.

Nothing in this Act extends to Scotland.

Nor no Attainder for any Offence therein made Felony, shall make or work any Corruption of Blood, Loss of Dower, or Disheirson of Heirs.

An Indictment for forging and publishing an Acquittance on a Bill of Exchange.

London. **T**HE Jurors for our Lord the King upon their Oath present, That M. S. late of London, Labourer, on the fifteenth Day of September, in the first Year of the Reign of our Sovereign Lord George the Third, King of Great Britain, &c. at the Parish of St. Sepulchre, in the Ward of Farringdon Without, in London aforesaid, had in his Custody a certain Bill of Exchange, purporting to be signed in the Name of J. J. and to bear Date at Stockholm, in Parts beyond the Seas, the thirtieth Day of August, in the Year of our Lord One thousand seven hundred and sixty-one, directed to P. T. Merchant, in London, for the Payment of four hundred and fifty Pounds Sterling,

Sterling, to J. G. or Order, two Months after Sight of the same Bill; and that the said M. S. contriving and intending the Governor and Company of the Bank of *England*, and also the said P. T. of *London*, Merchant, feloniously to deceive and defraud, after the twenty-fourth Day of *June*, One thousand seven hundred and sixty-one, to wit, on the fourteenth Day of *October*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the Ward aforesaid, in *London* aforesaid, wickedly, unlawfully, and feloniously did falsly make, forge, and counterfeit, and did cause to be falsly made, forged, and counterfeited on the same Bill of Exchange, an Acceptance in Writing of him the said P. T. in the Words and Figures following, to wit, 'Accepted 14 October, 1761, payable at Messieurs K. and J. P. T.' to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said M. S. contriving and intending the Governor and Company of the Bank of *England*, and also the said P. T. of *London*, Merchant, feloniously to deceive and defraud, on the said fourteenth Day of *October*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the Ward aforesaid, in *London* aforesaid, the said Writing falsly made and counterfeited, purporting to be the Acceptance of a certain Bill of Exchange, and purporting to be signed in the Name of J. J. and to bear Date at *Stockholm* aforesaid, the said thirtieth Day of *August*, in the Year One thousand seven hundred and sixty-one aforesaid, and to be directed to P. T. Merchant, in *London*, for the Payment of four hundred

hundred and fifty Pounds Sterling, to Ț. G. or Order, two Months after Sight of the said Bill, wickedly, unlawfully, fraudulently, and feloniously did publish, and cause to be published, for, and as a true Writing and Acceptance of the said P. T. which said false, forged, and counterfeit Writing, is in the Words and Figures following, to wit, ' *Accepted 14 October, 1735, payable at Messieurs K. and J. P. T.* (he the said M. S. at the Time of publishing the said false and counterfeit Writing there by him, in Form aforesaid, well knowing the said Writing to have been falsely forged, and counterfeited as aforesaid) to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

An Indictment of Felony for altering a Warrant, or Order for Payment, of a South Sea Annuity.

London. **T**HE Jurors for our Lord the King upon their Oath present, That one D. H. on the twenty-first Day of *January*, in the first Year of the Reign of our Sovereign Lord George the Third, by the Grace of God of *Great Britain, France and Ireland*, King, Defender of the Faith, &c. and long before was, and still is, one of the Clerks of the Governor and Company of Merchants of *Great Britain* trading to the *South Seas* and other Parts of *America*, and for encouraging the Fishery, and then, and long before, was, and hath ever since been, entrusted and employed by the Governor and Company aforesaid, to make out and sign Warrants, or Orders, for the Payment of Money payable by the said Governor and Company, to wit, at *London*, that is to say, at the Parish of

St. Mary Outwich, in the Ward of *Broad Street*, in *London* aforesaid. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that *H. P.* late of *London*, Gent. on the eleventh Day of *February*, in the first Year aforesaid, and long before, and afterwards, was a Clerk of the Governor and Company aforesaid, commonly called a Pay-Clerk, and entrusted and employed by the said Governor and Company to pay Money for them, and on their Behalf, upon and in Discharge of Warrants, or Orders, for the Payment of Money payable by the said Governor and Company, to wit, at *London* aforesaid, that is to say, in the Parish and Ward aforesaid: And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said *H. P.* on the said eleventh Day of *February*, in the first Year aforesaid, having in his Custody and Possession a certain Warrant, or Order, partly printed and partly written, signed by and under the Hand of the said *D. H.* and directed to *R. R. Esq;* then and upon the said twenty-first Day of *January*, in the said Year of our Lord One thousand seven hundred and forty-four, and long before, Cashier to the Governor and Company aforesaid, for the Payment of the Sum of eight Pounds to one *W. D.* therein named, for half a Year's Annuity on the Sum of four hundred Pounds Interest or Share in the new joint Stock of *South Sea* Annuities therein mentioned, and which said Warrant or Order was then in the Words, Figures, Cyphers and Letters following, that is to say, C No. 1214, *New South Sea Annuities at 4l. per Cent. 23d. R. R. Esq; pay to W. D.* (the Warrant set forth at Large) and on the Back of which said Warrant or Order, the said *W. D.* had signed his Name as followeth, *Wm. D.* He the said *H. P.* afterwards, that is to say, on the said eleventh Day of *February*, in the first Year aforesaid, with Force and Arms, at *London* aforesaid

said, that is to say, at the Parish of *St. Mary Outwich*, in the Ward of *Bread Street*, in *London* aforesaid; the said Warrant or Order feloniously did alter, and cause to be altered, by falsly making, forging, and adding the Letter *X* to the Word *Eight* before written in the said Warrant or Order; whereby the Words *Eight Pounds* before written in the said Warrant or Order, with the said Letter *X* so falsly made and forged, and added as aforesaid, became *Eighty Pounds*, and also, by falsly making, forging, and adding the Cypher *o* to the Figure and Cyphers *400*, before also written in the said Warrant or Order, which Figure and Cyphers, with the Letter *L* next preceding them, did before such last mentioned Forgery and Addition import and signify *Four hundred Pounds*; but by Reason and Means of such last mentioned Forgery and Addition, did, together with the said Cypher so falsly made, forged, and added as aforesaid, become, import, and signify, *Four thousand Pounds*: And also, by falsly making, forging, and adding the Cypher *o* to the Figure *8* before written, also in the said Warrant or Order, and which said last mentioned Figure, with the Letter *L* next preceding it, did, before such last mentioned Forgery and Addition, import and signify *Eight Pounds*; but, by Reason and Means of such last mentioned Forgery and Addition, did, together with the said last mentioned Cypher, so falsly made, forged, and added, become, import, and signify *Eighty Pounds*, with Intention to defraud the * Governor and Com-

* It was objected for the Prisoner, That an Intention to defraud a Body Corporate was not within the *Stat. 7. Geo. 2. c. 22.* which makes it Felony to forge, &c. with Intent to defraud, *any Person*; that the *South Sea Company* cannot fall under the Description of the general Word *Person* mentioned in this Act. This Point was reserved to the Prisoner, in case he should be found Guilty; but, he being acquitted, the Point was not determined.

pany aforesaid, the Sum of Seventy-two Pounds of lawful Money of *Great Britain*, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in such Case made and provided. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *H. P.* on the said eleventh Day of *February*, in the first Year of his said present Majesty's Reign, having in his Custody and Possession a certain false, forged, altered, and counterfeited Order, Warrant or Order, partly written and partly printed, purporting to be a Warrant or Order under the Hand of the said *D. H.* and directed to the said *R. R.* Esq; for the Payment of the Sum of eighty Pounds to one *W. D.* therein named, for half a Year's Annuity on the Sum of four thousand Pounds Interest or Share in the New joined Stock of *South Sea* Annuities therein mentioned, which said false, forged, altered, and counterfeited Warrant or Order is in the Words, Figures, and Cyphers following, that is to say, C No. 1214. (the whole Warrant set forth at Length); and, on the Backside of which said false, forged, altered, and counterfeited Warrant or Order, is signed the Name *Wm. D.* as a Discharge under the Hand of the said *W. D.* in the said false, forged, altered, and counterfeited Warrant, named of the said false, forged, altered, and counterfeited Warrant or Order; he, the said *H. P.* afterwards, to wit, upon the said eleventh Day of *February*, in the first Year aforesaid, with Force and Arms, at *London* aforesaid, that is to say, at the Parish of *St. Mary Cutwich*, in the said Ward of *Broad Street*, in *London* aforesaid, with Intention to defraud the Governor and Company of Merchants of *Great Britain*, trading to the *South Seas* and other Parts of *America*, and for encouraging the Fishery, of another Sum of Seventy two Pounds, the said false, forged, altered, and counterfeited Warrant or Order, did feloniously utter

utter and publish as a true Warrant or Order, under the Hand of the said *D. H.* for Payment of the Sum of Eighty Pounds to the said *W. D.* he, the said *W. P.* at the Time he so as aforesaid uttered and published the said false, forged, altered, and counterfeited Warrant or Order, well knowing the same to be false, forged, altered, and counterfeited, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in such Case made and provided, (a third Count for feloniously uttering and publishing the said forged Warrant or Order, with Intention to defraud diverse Persons unknown. And the Jurors aforesaid, upon their Oath aforesaid do further present, That the said *H. P.* on the said eleventh Day of *February*, in the first Year of the Reign of our said Lord the present King, at *London* aforesaid, in the Parish and Ward aforesaid, having in his Custody a certain Paper, partly printed and partly written, and which was then in the Words, Figures and Cyphers following, that is to say, C No. 1214, &c. and on the Back of which said Paper, partly printed and partly written, the aforesaid *W. D.* therein named, has indorsed and signed his Name as followeth, *Wm. D.* and which said Paper, partly printed and partly written, together with the said Indorsement, in the Form aforesaid, did then purport to be, and was, a * Receipt, Acquittance, and Discharge, under the Hand of the said *W. D.* for the said Sum of eight Pounds, in the said Paper, partly printed and partly written, mentioned; he the said *H. P.* afterwards, that is to say, on the said eleventh Day of *February*, in the first Year aforesaid, with Force and Arms, at

* The Warrant having been passed and cancelled as a true one, it was thought adviseable to consider it as a Receipt or Acquittance, which occasioned this and the two subsequent Counts.

the Parish and Ward aforesaid, in *London* aforesaid, the said Paper, partly printed and partly written, with the Indorsement thereon so purporting to be such Receipt, Acquittance, and Discharge as aforesaid, feloniously did alter, and cause to be altered, and the Letter *X* feloniously and falsly did make, forge, counterfeit, and add to the Word *Eight* before written, in the said Paper partly printed and partly written, so purporting with the said Indorsement to such Receipt, Acquittance, and Discharge as aforesaid; whereby the Words *Eight* Pounds, before written, in the said Paper partly printed and partly written, so purporting with the said Indorsement, to be such Receipt, Acquittance, and Discharge as aforesaid, with the said Letter *X* so falsly made, forged, and added thereto, became eighty Pounds; and also the Cypher o, feloniously and falsly did make, forge, counterfeit and add to the Figure and Cyphers 400, before also written in the said Paper partly printed and partly written, so purporting with the Indorsement aforesaid to be such Receipt, Acquittance, and Discharge as aforesaid, whereby the said Figure and Cyphers 400, with the printed Letter *L* next preceding them, did, together with the said Cypher so falsely made, forged, and added thereto, as aforesaid, become, import, and signify four thousand Pounds; and also the Cypher o, feloniously and falsely did make, forge, counterfeit, and add to the Figure 8, before written also in the said Paper partly printed and partly written, so purporting with the Indorsement aforesaid, to be such Receipt, Acquittance, and Discharge as aforesaid, whereby the Figure 8, with the printed Letter *L* also next preceding it, did, together with the the said last mentioned Cyphers so falsely made, forged, and added thereto as aforesaid, become, import, and signify Eighty Pounds, with Intention to defraud the Governor and Company of Merchants

chants of *Great Britain*, trading to the *South Seas* and other Parts of *America*, and for encouraging the Fishery, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statutes in such Case made and provided. A fifth Count for feloniously uttering and publishing such Receipt or Acquittance, knowing that the same had been altered, forged, and counterfeited, by Persons unknown, with Intent to defraud the said Governor and Company, *mutatis mutandis* as the fourth Count; and a sixth Count *mutatis mutandis* as the fifth Count, with Intent to defraud Persons unknown.

By the Stat. 7 Geo. 2. c. 22. it is enacted, *That if any Person, from and after the twenty-fourth Day of June, One thousand seven hundred and thirty four, shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly act or assist in the false making, altering, forging, or counterfeiting any Acceptance of any Bill of Exchange, or the Number, or principal Sum of any accountable Receipt for any Note, Bill, or other Security for Payment of Money, or any Warrant or Order for Payment of Money, or Delivery of Goods, with Intention to defraud any Person whatsoever, or shall utter, or publish as true, any false, altered, forged, or counterfeited Acceptance of any Bill of Exchange, or accountable Receipt for any Note, Bill, or other Security for Payment of Money, or Warrant or Order for Payment of Money, or Delivery of Goods, with Intention to defraud any Person, knowing the same to be false, altered, forged, or counterfeited; then every such Person being thereof lawfully convicted according to the due Course of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.*

296 **Precedents of Indictments, &c.**

It is made Felony without Benefit of Clergy, to forge Bank-Notes, Exchequer-Bills or Orders, by the several Statutes relating to these Securities.

An Indictment of Felony in counterfeiting, and forging a Stamp resembling the Stamp used by the King's Officers, for marking and stamping Hides and Skins, and Pieces of Hides and Skins, &c.

Pembrokeshire. **T**HE Jurors for our Lord the King upon their Oath present, That in Pursuance of, and according to the Form of the Statute in such Case made and provided, a certain Stamp on the twenty-fifth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* at the Parish of *Narbeth*, otherwise *Narberth*, in the County of *Pembroke*, was made, provided, and appointed for the making and stamping of Hides and Skins, and of Pieces of Hides and Skins, and of Vellum and Parchment tanned, tawed, dressed, or made within *England*, or *Wales*, or Town of *Berwick upon Tweed*, to denote the charging the Duties by the Statutes in such Case made and provided, payable to our said Lord the King, for, and in respect thereof, which said Stamp, on the twenty-fifth Day of *September*, in the Year aforesaid at the Parish and County aforesaid, was used for the Purpose aforesaid, and that one *T. C.* late of the Parish aforesaid, in the County aforesaid, Labourer, afterward, and after the making of the Statute in that Case lately made and provided, to wit, on the said twenty-fifth Day of *September*; in the first Year aforesaid, at the Parish aforesaid, in the County aforesaid, with Force and Arms, &c. feloniously did counterfeit and forge a certain Stamp to resemble the
said

saïd Stamp so as aforesaid made, provided, and appointed, and then and there did use in Pursuance of, and according to the Form of the Statute in such Case made and provided, with Intent thereby to defraud our saïd Lord the King of the Duties aforesaid, in Contempt of our saïd Lord the King and his Laws, against the Peace of our saïd Lord the King, his Crown and Dignity, and contrary to the Form of the Statute in such Case made and provided. And the Jurors aforesaid, do further present, That in Pursuance of, and according to the Form of the Statute in such Case made and provided, a certain Stamp on the thirtieth Day of *July*, in the Year of our Lord One thousand seven hundred and fifty-nine, at the Parish of *Narberth*, otherwise *Narberth* aforesaid, in the County of *Pembroke* aforesaid, was made, provided, and appointed for the marking and stamping of Hides and Skins, and of Pieces of Hides and Skins, and of Vellum and Parchment, tanned, tawed, dressed, or made within *England* or *Wales*, or Town of *Berwick* upon *Tweed*, to denote the charging the Duties by the Statutes in such Case made and provided, payable to our saïd Lord the King, for and in respect thereof, of which saïd last mentioned Stamp from the Day and Year last aforesaid, until the twentieth Day of *April*, in the Year of our Lord One thousand seven hundred and sixty-one, at the Parish and County aforesaid, was used for the Purposes last aforesaid, and that the aforesaid *T. C.* after the making of the Statute in such Case lately made and provided, to wit, at divers Times, and in and upon diverse Days within the Time last aforesaid, at the Parish of *Narberth*, otherwise *Narberth*, aforesaid, in the County of *Pembroke* aforesaid, with Force and Arms, &c. feloniously in and upon several Hides, and in and upon several Skins, and in and upon several Pieces of Hides, and in
and

and upon several Pieces of Skins respectively tanned within *Wales*, the Impression of the said last mentioned Stamp, did counterfeit and resemble, with Intent thereby to defraud our said Lord the King of the Duties last aforesaid, contrary to the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That in Pursuance of, and according to the Form of the Statute in such Case made and provided, a certain Stamp on the said thirtieth Day of *July*, in the Year of our Lord One thousand seven hundred and fifty-nine, and long before, at the Parish of *Narbeth*, otherwise *Narberth*, aforesaid, in the County of *Pembroke* aforesaid, was made, provided, and appointed, for the marking and stamping of Hides and Skins, and of Pieces of Hides and Skins, and of Vellum and Parchment, tanned, tawed, dressed or made within *England* or *Wales*, or Town of *Berwick* upon *Tweed*, to denote the charging the Duties by the Statutes in such Case made and provided, payable to our said Lord the King, for, and in respect thereof, which said last mentioned Stamp, from the Day and Year aforesaid, until the twentieth Day of *April*, in the Year of our Lord One thousand seven hundred and sixty-one, at the Parish and County aforesaid, was used for the Purposes last aforesaid, and that the aforesaid *T. C.* after the making of the Statutes in such Case lately made and provided, to wit, at divers Times and in and upon diverse Days within the Time last aforesaid, at the Parish of *Narbeth*, otherwise *Narberth*, aforesaid, in the County of *Pembroke* aforesaid, with Force and Arms, &c. feloniously in and upon several Hides, and in and upon several Skins, and in and upon several Pieces of Hides, and in and upon several Pieces of Skins respectively tanned

ned within *Wales*, the Impression of the said last mentioned Stamp, did counterfeit and resemble, and that the said *T. C.* did thereby then and there defraud our said Lord the King, of the Duties last aforesaid, contrary to the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That in Pursuance of, and according to the Form of the Statute in such Case made and provided, a certain Stamp on the said thirtieth Day of *July*, in the Year of our Lord One thousand seven hundred and fifty-nine, and long before, at the Parish of *Narbeth*, otherwise *Narberth*, aforesaid, in the County of *Pembroke* aforesaid, was made, provided, and appointed for the marking and Stamping of Hides and Skins, and of Pieces of Hides and Skins, and of Vellum and Parchment, tanned, tawed, dressed, or made within *England*, *Wales*, or Town of *Berwick upon Tweed*, to denote the charging the Duties by the Statutes in such Case made and provided, payable to our said Lord the King, for and in respect thereof, which said last mentioned Stamp, from the Day and Year last aforesaid, until the twentieth Day of *April*, in the Year of our Lord One thousand seven hundred and sixty-one, at the Parish and County aforesaid, was used for the Purposes last aforesaid, and that the aforesaid *T. C.* after the making of the Statute in such Case lately made and provided, to wit, at diverse Times, and in and upon diverse Days, within the Time last aforesaid, at the Parish aforesaid in the County aforesaid, several Hides and Skins, and several Pieces of Hides and several Pieces of Skins respectively tanned within *Wales*, and marked and stamped with a counterfeit and forged Impression thereon, resembling the Impression of the said last mentioned Stamp, so as is last
I aforesaid,

300 **Precedents of Indictments, &c.**

aforesaid made, provided, and appointed, and then and there used in Pursuance of, and according to the Form of the Statute in such Case made and provided, to certain Persons to the Jurors aforesaid as yet unknown, with Force and Arms, &c. feloniously did utter and sell (the same T. C. then and there well knowing the said Mark or Impression, so as aforesaid marked and stamped in and upon the said several Hides and Skins, and Pieces of Hides and Skins, so as aforesaid uttered and sold, to be forged and counterfeited) in Contempt of our said Lord the King and his Laws, against the Peace of our said Lord the King, his Crown and Dignity, and contrary to the Form of the Statute in such Case made and provided.

By Stat. 9 Ann. c. 11. *The Commissioners of the Customs shall provide Marks of the same kind with which the Hides, &c. shall be marked, and shall cause the said Marks to be distributed amongst the Officers of the Customs with which all the Hides, &c. tanned, &c. in Great Britain, upon the charging of the Duties shall be marked, and if any Person shall forge any Mark made in Pursuance of this Act, or shall counterfeit the Impression of the same upon any Hide, &c. to defraud his Majesty, or shall utter or sell any Hide, &c. with such counterfeit Mark, knowing such Mark to be counterfeited, being thereof convicted, shall suffer Death as in Cases of Felony, without Benefit of Clergy.*

For Forging and publishing a Bill of Exchange, and the Acceptance and Indorsement.

London. **T**HE Jurors for our Lord the King upon their Oath present, That J. H. late of London, Yeoman, on the fourth Day of September, in the first Year of the Reign of our Sovereign

Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at *London*, that is to say, at the Parish of *St. Mary Woolnoth*, in the Ward of *Langborn*, in *London* aforesaid, feloniously did falsly make, forge, and counterfeit, and cause and procure to be falsly made, forged, and counterfeited; and did willingly act and assist in the false making, forging, and counterfeiting a certain Bill of Exchange, commonly called an Inland Bill of Exchange, purporting to have been drawn by one *E. N.* and to be directed to *P. S.* and *J. R.* of *London*, Merchants, by the Name and Description of Messrs. *S. and Co. Queenstreet*, requiring them to pay Mr. *J. R.* or Order, the Sum of twenty-five Pounds, twenty-one Days after the Date of the same Bill, and to place the same Sum of Money to the Accounts of the said *E. N.* as per Advice from him the said *E. N.* Which said Bill of Exchange, so falsly made, forged, and counterfeited, is as followeth, that is to say,

No. 170. £ 25. *Bristol*, 13th *August*, 1761.

Twenty-one Days after Date please to pay
Mr. *J. R.* or Order, the Sum of twenty-five
Pounds, and place it to my Accounts, as per
Advice from

To Messrs. *S. and Co.* Your most humble Servant,
Queen street. *E. N.*

With Intention to defraud *J. V.* Esq; Sir *R. G.* Knt; and *T. H.* against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. H.* afterward, to wit, on the said fourth Day of *September*, in the [first Year above said, with Force and Arms, at *London* aforesaid, to wit, in the Parish
and

302 **Precedents of Indictments, &c.**

and Ward aforesaid, feloniously did utter and publish as true, a certain false, forged, and counterfeited Bill of Exchange, commonly called an Inland Bill of Exchange, purporting to have been drawn by the aforesaid *E. N.* and to be directed to the abovenamed *P. S.* and *J. R.* by the Name and Description of Messrs. *S. and Co. Queen-street*, requiring them to pay Mr. *J. R.* or Order, the Sum of twenty-five Pounds, twenty-one Days after the Date of the same Bill, and place it to the Accounts of the aforesaid *E. N.* as *per* Advice, from him the said *E. N.* Which said last mentioned false, forged, and counterfeited Bill of Exchange is as followeth, that is to say,

No. 170. £25. *Bristol, 13th August, 1761.*

Twenty-one Days after Date please to pay Mr. *J. R.* or Order, the Sum of twenty-five Pounds, and place it to my Accounts, as *per* Advice from

To Messrs. *S. and Co.* Your most humble Servant,
Queen-street. *E. N.*

With Intention to defraud the aforesaid *J. V.* Sir *R. G.* and *T. H.* (he the said *J. H.* at the said Time when he so uttered and published the said last mentioned Bill of Exchange, then and there well knowing the same to be false, forged, and counterfeited) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. H.* on the said fourth Day of *September*, in the first Year aforesaid, with Force and Arms, at *London* aforesaid, to wit, at the Parish and Ward aforesaid, feloniously did falsly make, forge, and counterfeit, and cause and procure to be falsly made, forged,

forged, and counterfeited, and willingly act and assist in the false making, forging, and counterfeiting a certain other Bill of Exchange, commonly called an Inland Bill of Exchange, purporting to have been drawn by the aforesaid *E. N.* and to be directed to the abovenamed *P. S.* and *J. R.* by the Name and Description of Messrs. *S. and Co. Queen-street*, requiring them to pay Mr. *J. R.* or Order, the Sum of twenty-five Pounds twenty one Days after the Date of the same Bill, and to place it to the Accounts of the aforesaid *E. N.* as *per* Advice from him the said *E. N.* which said last mentioned false, forged, and counterfeited Bill of Exchange is as followeth, that is to say,

No. 170. £25. *Bristol, 13th August, 1761.*

Twenty-one Days after Date please to pay
Mr. *J. R.* or Order, the Sum of twenty-five
Pounds, and place it to my Accounts as *per*
Advice from

To Messrs. *S. and Co.* Your most humble Servant,
Queen-Street. *E. N.*

With Intention to defraud the aforesaid *P. S.* and *J. R.* against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their said Oath, further present, That the said *J. H.* afterward, that is to say, on the said fourth Day of *September*, in the Year abovesaid, with Force and Arms, at *London* aforesaid, that is to say, at the Parish and Ward aforesaid, feloniously did utter and publish as true, a certain other false, forged, and counterfeited Bill of Exchange, commonly called an Inland Bill of Exchange, purporting to have been drawn by one *E. N.* abovenamed, and to be directed to the aforesaid *P. S.* and *J. R.* by the Name and Description

Twenty-one Days after Date please to pay
Mr. J. R. or Order, the Sum of twenty-five
Pounds, and place it to my Accounts, as *per*
Advice from
To Messrs. S. and Co. Your most humble Servant,
Queen-street. E. N.

With Intention to defraud the aforesaid *P. S.* and *J. R.* (he the said *J. H.* at the said Time when he so uttered and published the same last mentioned Bill of Exchange, then and there well knowing the same to be false, forged, and counterfeited) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their said Oath further present, That the said *J. H.* afterward, the said fourth Day of *September*, in the first Year of the Reign aforesaid, with Force and Arms, at *London* aforesaid, to wit, at the Parish and Ward aforesaid, upon a certain other Bill of Exchange, commonly called an Inland Bill of Exchange, subscribed with the Name *E. N.* bearing Date at *Bristol* the thirteenth Day of *August*, One thousand seven hundred and sixty-one, directed to the above-named *P. S.* and *J. R.* by the Name and Description of Messrs. *S. and Co. Queen-street*, by which said last mentioned Bill the said *E. N.* required the said *P. S.* and *J. R.* to pay Mr. *Jo. R.* or his Order, the
Sum

Sum of twenty-five Pounds, twenty-one Days after the Date of the said last mentioned Bill, and to place it to the Accounts of the aforesaid *E. N.* as *per* Advice from him the said *E. N.* feloniously did falsly make, forge, and counterfeit, and cause and procure to be falsly made, forged, and counterfeited, and willingly act and assist in the false making, forging, and counterfeiting an Indorsement of the said last mentioned Bill in the Name of the aforesaid *J. R.* to whom the same Money last mentioned was made payable by the said Bill, purporting to be an Assignment of the same Bill by and under the Hand of the said *J. R.* with Intention to defraud the aforesaid *J. V.* Sir *R. G.* and *T. H.* against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, further present, That the said *J. H.* afterward, the said fourth Day of *September*, in the first Year aforesaid, with Force and Arms, at *London* aforesaid, to wit, at the Parish and Ward aforesaid, feloniously did utter and publish as true, an Indorsement of a certain Bill of Exchange, commonly called an Inland Bill of Exchange, with the Name of *J. R.* signed and subscribed to the same Bill, bearing Date at *Bristol* the thirteenth Day of *August*, One thousand seven hundred and sixty-one, directed to the above named *P. S.* and *J. R.* by the Name and Description of Messrs. *S.* and Co. *Queen-street*; by which said last mentioned Bill the said *E. N.* required the said *P. S.* and *J. R.* to pay Mr. *J. R.* or his Order, twenty-five Pounds, twenty-one Days after the Date of the same Bill, and place it to the Accounts of the aforesaid *E. N.* as *per* Advice from him the said *E. N.* which said false, forged, and counterfeit Indorsement, purported to be an Assignment of the same Bill of Exchange, by and under the

X

Hand

Hand of the said *J. R.* to whom the said last mentioned Sum of Money was made payable by the same Bill, with Intention to defraud the aforesaid *J. V.* Sir *R. G.* and *T. H.* and he the said *J. H.* at the said Time when he so as aforesaid uttered and published the said last mentioned Indorsement of the same last mentioned Bill of Exchange, then and there well knowing the same Indorsement to be false, forged, and counterfeited, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, further present, that the said *J. H.* afterward, the said fourth Day of *September*, in the first Year abovesaid, with Force and Arms, at *London* aforesaid, to wit, at the Parish and Ward aforesaid, upon a certain other Bill of Exchange, commonly called an Inland Bill of Exchange, subscribed with the Name of *E. N.* bearing Date at *Bristol* the thirteenth Day of *August*, One thousand seven hundred and sixty-one, directed to the abovenamed *P. S.* and *J. R.* by the Name and Description of Messrs. *S. and Co. Queen-street*; by which said last mentioned Bill the said *E. N.* required the said *P. S.* and *J. R.* to pay Mr. *J. R.* or his Order, the Sum of twenty-five Pounds, twenty-one Days after the Date of the said last mentioned Bill, and to place it to the Accounts of the aforesaid *E. N.* as *per* Advice from him the said *E. N.* feloniously did falsely make, forge, and counterfeit, and cause and procure to be falsely made, forged, and counterfeited, and willingly act and assist in the false making, forging, and counterfeiting an Indorsement of the said last mentioned Bill of Exchange, in the Name of the said *J. R.* to whom the said Sum of twenty-five Pounds contained in the same Bill, was made payable by the said Bill, purporting to be an Assignment of the
same

same last mentioned Bill, by and under the Hand of the said *J. R.* with Intention to defraud the aforesaid *P. S.* and *J. R.* against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, further present, That the said *J. H.* afterwards, on the said fourth Day of *September*, in the first Year aforesaid, with Force and Arms, at *London* aforesaid, to wit, at the Parish and Ward aforesaid, feloniously did utter and publish as true, a certain other Indorsement of one other Bill of Exchange, commonly called an Inland Bill of Exchange, with the Name of *J. R.* signed and subscribed to the same Bill, bearing Date at *Bristol* the thirteenth Day of *August*, in the Year One thousand seven hundred and sixty-one, directed to the aforesaid *P. S.* and *J. R.* by the Name and Description of Messrs. *S. and Co. Queen-street*; by which said last mentioned Bill the said *E. N.* required the said *P. S.* and *J. R.* to pay Mr. *J. R.* or his Order, the Sum of twenty-five Pounds, twenty-one Days after the Date of the same Bill, and to place the same to the Accounts of him the said *E. N.* as *per* Advice from him the said *E. N.* which said false, forged, and counterfeit Indorsement, purporting to be an Assignment of the said last mentioned Bill of Exchange, by and under the the Hand of the said *J. R.* to whom the said last mentioned twenty-five Pounds was by the same Bill made payable, with Intention to defraud the aforesaid *P. S.* and *J. R.* he the said *J. H.* at the Time when he so as aforesaid uttered and published the said last mentioned Indorsement of the said Bill of Exchange last above mentioned, then and there well knowing the same to be false, forged, and counterfeited, against the Form of the Statute in such Case made and provided, and against the

308 **Precedents of Indictments, &c.**

Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, further present, That the said *J. H.* on the said fourth Day of *September*, in the first Year aforesaid, with Force and Arms, at *London* aforesaid, that is to say, at the Parish and Ward aforesaid, having in his Custody and Possession a certain Bill of Exchange, commonly called an Inland Bill of Exchange, signed and subscribed with the Name of *E. N.* bearing Date at *Bristol* the thirteenth Day of *August*, One thousand seven hundred sixty-one, directed to *P. S.* and *J. R.* above named, by the Name and Description of Messrs. *S.* and *Co. Queen street*; for the Payment of the Sum of twenty-five Pounds, twenty-one Days after the Date thereof, to Mr. *J. R.* or his Order, to be placed to the Accounts of him the said *E. N.* as *per* Advice from the said *E. N.* he the said *J. H.* afterward, to wit, on the said fourth Day of *September*, in the Year aforesaid, at *London* aforesaid, in the Parish and Ward aforesaid, feloniously did falsely make, forge, and counterfeit, and cause and procure to be falsely made, forged, and counterfeited, and willingly act and assist in the false making, forging, and counterfeiting an Acceptance of the same Bill of Exchange, purporting to have been written by the said *P. S.* with Intention to defraud the aforesaid *J. V.* Sir *R. G.* and *T. H.* against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their said Oath, further present, That the said *J. H.* afterward, on the said fourth Day of *September*, in the first Year aforesaid, with Force and Arms, at *London* aforesaid, to wit, at the Parish and Ward aforesaid, feloniously did utter and publish as true, a certain false, forged, and counterfeited Acceptance of a certain Bill of Exchange,
commonly

commonly called an Inland Bill of Exchange, purporting to be the Acceptance of *P. S.* and to have been written on the same Bill by him the said *P. S.* which said Bill of Exchange last mentioned was signed and subscribed with the Name of *E. N.* and directed to the said *P. S.* and *J. R.* by the Name of Messrs. *S. and Co. Queen-street*; bearing Date at *Bristol* the thirteenth Day of *August*, One thousand seven hundred and sixty-one; by which said last mentioned Bill the said *E. N.* required the said *P. S.* and *J. R.* to whom the same was so directed as aforesaid, to pay Mr. *J. R.* or his Order, the Sum of twenty-five Pounds, twenty-one Days after the Date thereof, and to place to the Accounts of him the said *E. N.* as *per* Advice from him the said *E. N.* with Intention to defraud the aforesaid *J. V.* Sir *R. G.* and *T. H.* he the said *J. H.* at the said time when he so as aforesaid uttered and published the same last mentioned Acceptance of the same last mentioned Bill of Exchange, then and there well knowing the same Acceptance to be false, forged, and counterfeited, against the Form of the Statute, &c. And the Jurors aforesaid, upon their said Oath further present, That the said *J. H.* on the said fourth Day of *September*, in the first Year aforesaid, at the Parish and Ward aforesaid, in *London* aforesaid, then and there having in his Custody and Possession a certain other Bill of Exchange, commonly called an Inland Bill of Exchange, signed and subscribed with the Name of one *E. N.* bearing Date at *Bristol* the thirteenth Day of *August*, One thousand seven hundred and sixty-one, directed to *P. S.* and *J. R.* by the Name and Description of Messrs. *S. and Co. Queen-street*; thereby requiring the said *P. S.* and *J. R.* to pay Mr. *J. R.* or his Order, the Sum of twenty-five Pounds, twenty-one Days after Date, and to place it to the Account of him the said *E. N.* as *per* Advice from the said *E. N.* feloniously

310 **Precedents of Indictments, &c.**

did falsly make, forge, and counterfeit, and cause and procure to be falsly made, forged, and counterfeited, and willingly act and assist in the false making, forging, and counterfeiting an Acceptance of the same Bill of Exchange, purporting to have been written by the said *P. S.* upon the same Bill, with Intention to defraud the aforesaid *P. S.* and *J. R.* against the Form of the Statute, in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, further present, that the said *J. H.* on the same fourth Day of *September*, in the first Year aforesaid, at *London* aforesaid, to wit, in the Parish and Ward aforesaid, then and there having in his Custody and Possession a certain other Bill of Exchange, commonly called an Inland Bill of Exchange, signed and subscribed with the Name of the aforesaid *E. N.* bearing Date at *Bristol* the thirteenth Day of *August*, One thousand seven hundred sixty-one, directed to the aforesaid *P. S.* and *J. R.* by the Name and Description of Messrs. *S.* and Co. *Queen-street*; thereby requiring the said *P. S.* and *J. R.* to pay Mr. *J. R.* or Order, the Sum of twenty-five Pounds, twenty-one Days after Date, and to place it to the Accounts of him the said *E. N.* as *per* Advice from him the same *E. N.* together with a false, forged, and counterfeited Acceptance of the same Bill of Exchange, written upon the same Bill, and purporting to have been written by the aforesaid *P. S.* with Force and Arms, feloniously did utter and publish as true, the said last mentioned false, forged, and counterfeited Acceptance, with Intention to defraud the aforesaid *P. S.* and *J. R.* he the said *J. H.* at the said time of uttering and publishing the said last mentioned Acceptance, then and there well knowing the same to be false, forged, and counterfeited, against the
Form

Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By 2 Geo. 2. c. 25. (made perpetual by 9 Geo. 2. c. 18.) Felony without Benefit of Clergy to forge, &c. any Deed, Will, Testament, Bond, Bill of Exchange, Promissory Note, or Acquittance or Receipt, or to publish any such forged Deed, &c. as true, knowing it to be forged, with Intent to defraud any Person.

Forging Exchequer Bills, Felony without Benefit of Clergy. 30 Geo. 2. c. 3. §. 156.

Altering a Writing cross the Face of a Bank Note is altering an Indorsement within the Statute. See Strange's Rep. 18, 19.

G A M I N G.

Indictment for winning above Ten Pounds, at Cards, at one Time and Sitting.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *L. U.* late of the Parish of *St. Paul, Covent-Garden*, in the County of *Middlesex*, Gent. after the first Day of *May*, in the Year of our Lord one thousand seven hundred and eleven, to wit, on the twentieth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, did, by gaming with *N. O.* Gentleman, win at one Time and Sitting, above the Sum of ten Pounds, that is to say, the Sum of one thousand and fifty Pounds. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *L. U.* afterward, to wit, on the twenty-first Day of the said Month of *November*, in the Year aforesaid, at the

312 **Precedents of Indictments, &c.**

same Parish and County, did receive, obtain, and acquire to himself, of and from the said *N. O.* for and in Satisfaction of the said one thousand and fifty Pounds, so won as aforesaid, three several Promissory Notes, each Note of the Value of three hundred and fifteen Pounds, the Property of the said *N. O.* amounting together to the Value of nine hundred and forty-five Pounds, each of which said Notes was signed on the Behalf of *M.* and Company, then being Bankers in *London*, intitling the Bearer of each of the said respective Notes, to the Sum of three hundred and fifteen Pounds; and also one other Promissory Note of the Value of one hundred and five Pounds, the Property of the said *N. O.* signed on the Behalf of *F. C.* and Company, Bankers in *London*, intitling the Bearer thereof to the Sum of one hundred and five Pounds, to the great Damage of the said *N. O.* to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said *L. U.* on the said twenty-first Day of *November*, in the said first Year of the Reign of our said Lord the King, at the Parish aforesaid, in the County of *Middlesex*, did, by gaming and playing at Cards with *N. O.* Gent. win, obtain, and acquire to himself, at one Time and Sitting, above the Sum of ten Pounds, that is to say, the Sum of one thousand and fifty Pounds of and from the said *N. O.* to the great Damage of the said *N. O.* to the evil Example of all others in the like Case offending, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

A N O.

A N O T H E R.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *H. A.* late of the Parish of *St. Mary le Bone*, in the County of *Middlesex*, Gent. after the first Day of *May*, in the Year of our Lord One thousand seven hundred and eleven, to wit, on the twentieth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish of *St Martin in the Fields*, in the County aforesaid, did, by gaming and playing at Cards with *A. P.* Gent. win at one Time and Sitting, above the Sum of ten Pounds, that is to say, the Sum of four hundred and twenty Pounds. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *H. A.* afterward, to wit, on the twenty-fourth Day of *November*, in the Year aforesaid, in the Parish above mentioned, in the County aforesaid, did receive, obtain, and procure to himself of the said *A. P.* but from and by the Hands of *G. S.* of *London*, as Agent or Servant to the said *A. P.* for and in Satisfaction of the said four hundred and twenty Pounds so won as aforesaid, the Sum of four hundred and twenty Pounds of lawful Money of *Great Britain*, to the great Damage of the said *A. P.* to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

A N O.

A N O T H E R.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Lambeth*, in the County of *Surry*, Gent. and *C. D.* late of the same, Labourer, being Persons of evil Name and Fame, and dishonest Conversation, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and eleven, to wit, on the twenty-ninth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, out of the Palaces of our said Lord the King, called *St. James* and *Whitehall*, not within any Royal Palace where our said Lord the King was then actually Resident, but in a certain House called *Lark-Hall*, lying and being in the Parish aforesaid, in the County aforesaid, by playing there at an unlawful Game at Cards, called *Cribbage*, with one *E. F.* they the said *A. B.* and *C. D.* at that unlawful Game, at one Time and Sitting, did then and there unlawfully win of the said *E. F.* above the Sum of ten Pounds, to wit, the Sum of eleven Pounds and nine Shilling of lawful Money of *Great Britain*, of the Monies of the said *E. F.* to the great Damage of him the said *E. F.* against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For winning above Ten Pounds at Dice, at one Time and Sitting.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *R. H.* late of the Parish of *St. Martin* in the *Fields*, in the County of *Middlesex*, Labourer, not regarding the Laws and Statutes of this Realm, nor fearing the Pains and Penalties contained therein, after the first Day of *May*, in the Year of our Lord One thousand seven hundred and eleven, to wit, on the fourteenth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, by Fraud, Shift, Coufenage, Circumvention, Deceit, unlawful Device, and ill Practice, did win, obtain, and acquire to himself twelve Pounds nineteen Shillings and Sixpence, of lawful Money of *Great Britain*, of the Monies of one *G. D.* of and from him the said *G. D.* in and by playing with him the said *G. D.* at Dice, to the great Damage of the said *G. D.* against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

“ By the Stat. 9 *Ann.* c. 14. *For the better preventing of excessive and deceitful Gaming, It is enacted*, That after the first Day of *May*, One thousand seven hundred and eleven, all Notes, Bills, Bonds, &c. given by any Person, where the Consideration is for Money, or other valuable Thing, won by Gaming or playing at Cards, Dice, Tables, Tennis, Bowls, or other Game, or by Betting, or for repaying any Money knowingly lent for such Gaming or Betting, or lent at the Time and Place of such play; to any so gaming

316 **Precedents of Indictments, &c.**

“ gaming or betting, &c. shall be void: And
 “ where Mortgages, &c. shall be of Lands, &c.
 “ or shall incumber or affect the same, &c. such
 “ Mortgages, &c. shall devolve on such Persons
 “ as should or might have, or be entitled to such
 “ Lands, &c. in Case the Grantor thereof had
 “ been dead; and as if such Mortgages, &c. had
 “ been made to the Persons intituled after the De-
 “ cease of the Person incumbring; And all Grants
 “ or Conveyances made to hinder such Lands, &c.
 “ from devolving upon such Persons, shall be
 “ deemed fraudulent and void.

“ Any Person playing at Cards, Dice, &c. or
 “ Betting, and losing the Value of ten Pounds,
 “ and paying the same, or any Part, may, within
 “ three Months, sue for and recover the Money
 “ so lost from the Winner, with Costs, &c. in
 “ which Action it shall be sufficient to alledge,
 “ that the Defendant is indebted to the Plaintiff,
 “ or received for his own Use, &c. the Money so
 “ lost and paid, without setting forth the special
 “ Matter; and in Case the Loser do not sue, any
 “ other Person may, and recover the same, and
 “ treble the Value, with Costs, against such Win-
 “ ners: One Moiety to the Informer, the other
 “ to the Poor of the Parish.

“ Every Person liable to be sued, shall answer
 “ upon Oath such Bills as shall be preferred against
 “ him, for discovering the Sums of Money, or
 “ other Thing, so won at play.

“ The Person who shall discover and repay,
 “ shall be indemnified from any other Punishment.

“ Any Person who shall by Fraud, &c. in play-
 “ ing at Cards, Dice, &c. or by bearing a Share
 “ in the Stakes, &c. or by betting, win any Sum
 “ of Money, &c. above ten Pounds, at one Time
 “ or Sitting, such Person so convicted on *Indict-*
 “ *ment*, &c. shall forfeit five Times the Value of
 “ the

“ the Sums, or other Thing so won, and be
“ deemed infamous, and suffer such corporal Pu-
“ nishment as in Cases of wilful Perjury; any two
“ or more Justices may cause such Persons to be
“ brought before them, as they have Cause to sus-
“ pect to have no visible Estate, &c. to maintain
“ themselves by; and if they do not make it ap-
“ pear, that the principal Part of their Expences
“ is not maintained by Gaming, then such Justices
“ shall require Securities for their good Behaviour
“ for twelve Months, and in Default commit them
“ to Gaol.

“ Such Persons finding Sureties, and playing or
“ betting, during the Time, for the Value of
“ twenty Shillings, shall forfeit their Recogni-
“ zance.

“ If any Person shall assault and beat, or chal-
“ lenge to fight any other Person on Account of
“ Money won by Gaming, &c. being convicted
“ thereof he shall forfeit all his Goods, &c. and
“ suffer Imprisonment for two Years.

“ This Act shall not extend to prevent any Per-
“ son from Gaming within any of her Majesty's
“ Palaces of *St. James* or *Whitehall*, during her
“ Majesty's actual Residence at either of the said
“ Palaces, or in any other Royal Palace where she
“ shall be Resident, so as such Playing be not in
“ any House, &c. the Freehold or Inheritance
“ whereof is out of the Crown, and so as such
“ Playing be for ready Money only.”

By the Stat. 18 Geo. 2. c. 34. *it is enacted, That if any Person shall win or lose at Play, or by betting at any one Time, the Sum or Value of ten Pounds, or within the Space of twenty-four Hours, the Sum of twenty Pounds, such Person shall be liable to be indicted for such Offence within six Months after it is committed, either before his Majesty's Justices of the King's*

318 *Precedents of Indictments, &c.*

King's Bench, Assises, Gaol Delivery, or Grand Sessions; and being thereof convicted, shall be fined five Times the Value of the Sum so won or lost; which fine (after such Charges as the Court shall judge reasonable allowed to the Prosecutors and Evidence out of the same) shall go to the Poor of the Parish or Place where such Offence shall be committed.

Provided that if any Person so offending shall discover any other Person so offending, so that such Person shall be thereupon convicted, the Person so discovering shall be discharged and indemnified from all Penalties, by Reason of any such Offence, if such Person so discovering hath not been before convicted thereof, and shall be admitted as an Evidence to prove the same.

See Statute 12 Geo. 2. c. 28. & 13 Geo. 2. c. 19.

G U N S, &c.

For keeping a Gun to destroy the Game.

Worcestershire. **T**HE Jurors for our Lord the King, upon their Oath present, That *H. V.* late of the Parish of *Ombersly*, in the County of *Worcester*, Yeoman, on the fourth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*, &c. then not having Lands and Tenements, or any other hereditary Estate, in his own Right, or in Right of his Wife, of the clear yearly Value of One hundred Pounds by the Year, or for the Term of his Life, nor having a Lease or Leases for ninety-nine Years, or for a longer Term, of the clear yearly Value of One hundred and fifty Pounds, nor then being Son and Heir apparent of an Esquire, or any other Person of a higher Degree, nor then being Owner or Keeper of any

HORSE-STEALING. 319

any Forrest, Park, Chace, or Warren: Nevertheless, the said *H. V.* on the said fourth Day of *September*, in the Year aforesaid, and diverse other Days and Times, as well before as after, at the Parish of *Ombersly* aforesaid, in the County aforesaid, unlawfully and contemptuously had and kept, and still hath and doth keep a certain Gun for destroying the Game of this Kingdom, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 22. & 23. Car. 2. c. 25. Persons not being qualified in the Manner recited in the above Indictment, are declared to be Persons, by the Laws of this Realm, nor allowed to have or keep for themselves, or any other Person or Persons, any Guns, Bows, Greyhounds, Setting-Dogs, Ferrets, Coney-Dogs, Lurchers, Hayes, Nets, Lowbels, Hare-pipes, Snares, or other Engines, but are thereby prohibited to have, keep, or use the same.

HORSE-STEALING.

An Indictment for stealing a Gelding.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. E.* late of the Parish of *Hornsey*, in the County of *Middlesex*, Labourer, on the twelfth Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Gelding of a bay Colour, of the Price of six Pounds, of the Goods Chattels of one *J. D.* then and there found, feloniously

320 **Precedents of Indictments, &c.**

ously did steal, take, and * lead away, against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 2 & 3 E. 6. c. 33. *All Persons feloniously taking or stealing any Horse, Gelding, or Mare, shall not be admitted to the Privilege of the Clergy, but shall be put from the same in like Manner and Form, as though they had been indicted for feloniously stealing of two Horses, two Geldings, or two Mares, and thereupon found Guilty by Verdict, or Confession, &c.*

Note, *A Person who shall apprehend and prosecute to Conviction, any Horse-stealer, shall have a Certificate signed by the Judge, to exempt him from Serving all Parish and Ward Offices.* See Stat. 10 and 11 W. 3. c. 23.

Note, *The Certificate may be once assigned, and not more.*

HOUSE-BREAKING.

For breaking a House in the Day-Time with Intent to Steal.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. John, Wapping*, in the County of *Middlesex*, Labourer, on the first Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. about the Hour of ten in the Forenoon of the same Day, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling-House of *B. C.* there situate,

* *For stealing a Horse, &c. (instead of carry away) lead away; for Oxen, Cows, Sheep, &c. drive away.*

unlawfully

HOUSE-BREAKING. 321

unlawfully did break and enter, with Intent the Goods, Chattels, and Monies in the same Dwelling-House, then and there being, feloniously to steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

If a Man breaks a House, in the Day-Time, with an Intent to steal, but steals nothing, this is no Felony; but otherwise, in Case of breaking the House in the Night, with Intent to steal, for that is Burglary.
11 Co. Rep. 31. Poulter's Case.

H O U S E S.

An Indictment for stealing above the Value of Forty Shillings in a Dwelling-House.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Precinct of *St. Catherine*, in the County of *Middlesex*, Labourer, on the sixth Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Precinct aforesaid, in the County aforesaid, one Silver Pint Pot, of the Value of Forty Shillings; six Diaper Napkins, of the Value of Seven Shillings; and nine Pewter Dishes, of the Value of Twenty Shillings, of the Goods and Chattels of one *I. P.* in the Dwelling-House of him the said *I. P.* then and there being found, feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 12 Ann. Stat. 1. c. 7. It is enacted, That every Person, who shall feloniously steal any Money, Goods, &c. of the Value of forty Shillings, or more, being in a Dwelling-House, or Out-House thereunto belonging, although such House or Out-House

Y

be

322 **Precedents of Indictments, &c.**

be not actually broken by such Offenders; and although the Owner of such Goods or any other Person or Persons, be not in such House or Out-House, or shall assist or aid any Person to commit such Offence, being convicted or attainted by Verdict, or Confession, &c. shall be absolutely debar'd of Clergy, &c.

Provided, That nothing in this Act shall extend to Apprentices under the Age of fifteen Years who shall rob their Masters.

N. B. No Reward on Conviction in this Case by the above mentioned Statute, or any other.

And if the Jury find under forty Shillings, the Party hath his Clergy.

IMBEZZLEMENT.

For enticing a Servant to Imbezzle his Master's Goods.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That *J. B.* late of the Parish of *St. Mary le Bone*, in the County of *Middlesex*, Glover, on the twenty-seventh Day of *August*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, falsely, subtilly and unlawfully did solícite, incite, and persuade one *J. N.* Apprentice to *W. K.* of the same Parish and County, Baker, secretly and clandestinely to take and imbezzle diverse Goods and Chattles of the said *W. K.* and to give and deliver such Goods and Chattles to him the said *J. B.* and that the said *J. B.* afterward, to wit, the said twenty-seventh Day of *August*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, three Bushels of Flower, of the Value of fifteen Shillings, of the
Goods

Goods and Chattles of the said *W. K.* by the said *J. N.* then lately before, on the same Day and Year above mentioned, by the Solicitation, Incitement, and Persuasion of the said *J. B.* taken and imbezzled then and there falsely, knowingly, subtilly, and unlawfully did receive, obtain, and have of and from the said *J. N.* to the great Damage of the said *W. K.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

This is a very great Offence, and in its Nature Felony, provided the Principal had been indicted for Felony, the Offender might have been prosecuted as an Accessary before the Faët, but prosecuting him for a Misdemeanor, is done to spare the Principal from the Felony.

This Offence has frequently been punished by Fine and Imprisonment in the House of Correction to hard Labour.

I N M A T E S.

For receiving and lodging Inmates.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. J.* late of the Parish of *St. Sepulchre*, in the County of *Middlesex*, Cordwainer, on the first Day of *July*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*, &c. being the Occupier of a certain Cottage situate in the Parish aforesaid, in the County aforesaid, and then inhabiting and dwelling in the same Cottage with his own Family, he the said *A. J.* then and there, with Force and Arms, unlawfully

324 **Precedents of Indictments, &c.**

did receive, lodge, and place one *H. C. M.* his Wife, and *A.* his Daughter, as Inmates, to inhabit and dwell in the same Cottage; and the said *H. C. M.* his Wife, and *A.* his Daughter, so received, lodged, and placed as aforesaid, he the said *A. J.* from the said first Day of *July*, in the Year aforesaid, until the said ninth Day of *October*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, unlawfully and willingly did suffer to remain and dwell in the said Cottage as aforesaid, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 31 *Eliz. c. 7.* It is enacted, *There shall not be any Inmate, or more Families or Households than one, dwelling or inhabiting in any one Cottage made, or to be made or erected, upon Pain that every Owner, or Occupier of any such Cottage, placing, or willingly suffering any such Inmate, or other Family than one, shall forfeit and lose to the Lord of the Lect, within which the Cottage shall be, the Sum of ten Shillings for every Month that any such Inmate, or other Family than one, shall dwell or inhabit in any one Cottage, as aforesaid.*

Vide the Exception mentioned in the Stat. 43 of Eliz. c. 2. §. 5. under the Precedent for erecting Cottages.

Terms de Ley 408. *Inmates are those Persons of one Family, that are suffered to come and dwell in one Cottage together with another Family, by which the Poor of the Parish will be increased.*

L A R C E N Y, Grand and Petty.

An Indictment for Grand Larceny.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A.* *B.* late *Esq.* on the *Day* of in the first Year of the Reign of our Sovereign Lord George the Third, King of Great Britain, *Esq.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Silver Spoon, of the Value of ten Shillings, of the Goods and Chattels of one *J. L.* two Brass Candlesticks, of the Value of two Shillings, and two Linen Shirts, of the Value of six Shillings, of the Goods and Chattels of one *E. W.* then and there being found, feloniously did steal, * *take*, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Larceny, Latrocinium, is a wrongfully taking away another Man's Goods, with a Mind to steal, derived of the French, Larcen, i. e. Furtum.

Larceny defined.

This is called a Grand Larceny, being above the Value of twelve Pence, charged to be stolen, of the Goods of another, not from the Person, nor out of his House.

Petty Larceny is under the Value of twelve Pence, and the Form of the Indictment is exactly the same, only in respect to Value.

To shew what is Felony, and what not.

If a Person finds Goods lost, and converts them, though it was Animo furandi, yet it is no Felony.

* *The Word (take) must be in ; for to say, did steal and carry away, is not sufficient.*

326 *Precedents of Indictments, &c.*

If a Man hath a bare Charge of Goods, Felony may be by him committed, as a Servant that hath a Charge of Plate.

The like of him who hath a special Use, as a Guest at a Tavern, that hath Plate set before him.

He who hath Possession by Delivery, cannot commit Felony.

If a Carrier hath Goods delivered to him, and carries them away, it is no Felony.

But if the Privy be determined, then it may be Felony; as if A. delivers a Pack to a Carrier who opens it, and takes Goods, it is Felony.

Felony, by the Stat. 21 H. 8. c. 7. If a Servant goes away with Goods of his Master or Mistress, delivered to him, to or above the Value of forty Skillings, it is Felony; but this extends not to a Servant or Apprentice, within eighteen Years of Age.

If one Servant delivers Goods to another, it is a Delivery by Master.

If the Master deliver an Obligation, or deliver Cattle to sell, and the Servant receives Money, and departs it is no Felony; nor if he should go away with the Obligation.

Moving any Thing from one Place to another, though it be in the same House or Room, with a felonious Intent, is a carrying away within the Meaning of the Law.

So if a Person takes a Horse, with Intent to steal him, but is apprehended before he gets out of the Pasture, this is a felonious taking away.

How a Wife excusable.

If a Wife commits Theft by Coercion of her Husband, it is not Felony in her.

Not Felony to take Things growing.

No Larceny can be committed of Corn, Grass, Apples, &c. growing; but Offenders are indictable for Misdemeanor;

demeanor; nor of Mastiff Dogs, Bears, Foxes, Monkeys, Ferrets, or their Whelps, no Felony can be committed; but Felony may be committed of Hawks reclaimed.

It is no Felony to take Things wild in their Nature, as Conies, Hares, Cranes, Partridges, Pheasants; but if reduced to Tameness, he that then takes them, knowing them to be tame, committeth Felony.

Taking Things wild in Nature not Felony (except reclaimed.)

To take Swans marked, or pinioned, or unmarked, if Tame, kept in a Mote, Pond, or private River, is Felony.

To take Swans Felony.

To take young Hawks or Pigeons in the Nest is Felony.

Young Hawks or Pigeons Eggs Felony.

Taking the Eggs of Hawks or Swans out of another Man's Ground, is not Felony.

Eggs of Hawks or Swans out of another Man's Ground not Felony.

Taking any Thing tame in Nature, as Ducks, Hens, Geese, Turkeys, Peacocks or their Eggs, or domestic Beasts, as Horses, Mares, Colts, &c. or their Young, is Felony.

Felony to take tame Things.

To steal Goods, &c. in Middlesex, and carry them to Surry, Offender may be indicted in Surry, for it is Felony wherever stolen Goods are brought.

Felony in every County where stolen Goods are found.

If one Person at diverse Times steals Goods or Money in several Parcels, as Fourpence at one Time, Eightpence at another, and Sixpence at another, the whole amounting to above Twelvence, this is Grand Larceny; and it may be all put together in one Indictment, and lay the Day of (a Day subsequent to) the last taking.

Diverse Sums at different Times stolen, amounting to above 12 d. in the whole, Grand Larceny.

Petty Larceny is Felony, but not of Death, yet the Convict forfeits Goods, &c. and is punishable by whipping.

Under 12 d. Petty Larceny.

328 **Precedents of Indictments, &c.**

In Grand Larceny, the Jury may find to the Value of Ten-pence, which reduces the Fact to Petty Larceny, and convict as such only punishable.

The Value of Things stolen must be expressed in the Indictment, to distinguish Grand Larceny from Petit, under forty Skillings out of a Dwelling House is but Grand Larceny within Clergy (if the House is not broke) and if living Things, you must say instead (of the Value) of the Price, viz. one Ewe Sheep of the Price of twenty Skillings, of the Goods and Chattels of J. B.

To omit saying of the Goods and Chattels, is Fatal.

An Indictment, for that a Man feloniously took twenty Sheep, Weathers and Ewes, not good; because it doth not appear how many of one Sort, and how many of the other; but to say, did feloniously take twenty Sheep generally, will be good, without distinguishing, as in Case of Replevin or Trespass.

By the Stat. 4 Geo. 1. c. 11. 6 Geo. 1. c. 23. The Court may order any Person convicted of Larceny, or any Felonious stealing of Money, &c. within Clergy (except Persons convicted for receiving stolen Goods, knowing them to be stolen) instead of being burnt in the Hand, or whipt, to be transported to any of his Majesty's Plantations in America, for the Space of seven Years; and Persons convicted for receiving stolen Goods, knowing them to be stolen, or for Offences without Clergy that pardoned generally upon Condition of Transportation, to be transported

Felons returning from Transportation before their Term expire, without Clergy. Receivers of stolen Goods (knowingly) to be transported for 14 Years.

ported for the Term of fourteen Years; and if any shall rescue or aid such Offender to make his Escape, or he return before expiration of his Term to Great Britain or Ireland, shall be deemed guilty of Felony without Clergy.

Larceny; from a Person privately, oust of Clergy.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. John, Wapping*, in the County of *Middlesex*, Labourer, on the fifteenth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Silver Watch, with a Silver Chain, of the Value of four Pounds, of the Goods and Chattels of one *C. D.* from the Person of the said *C. D.* privately, secretly, and without the Knowledge of the said *C. D.* then and there feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

This is Larceny secretly from the Person, which is either picking the Pocket, or cutting the Purse.

Stat. 8. Eliz. c. 4. Offender oust of Clergy, if the Indictment pursue the Statute which is privily, without the Knowledge of the Party.

Note, That this Statute does not extend to any Accessaries before or after.

But, if under the Value of Twelve-pence, then it remains Petty Larceny, as before; for the Statute did not alter the Offence, though it took away the Priviledge.
Crompt. P. C. c. 16.

Under 12 d. but Petty Larceny, tho' from the Person.

Therefore,

330 **Precedents of Indictments, &c.**

Therefore, if under Twelve-pence, the Indictment must not be secretly from the Person.

The Indictment need not conclude against the Form of the Statute, being always a Felony at Common Law.

N. B. There is no Reward given by any Statute upon Conviction in this Case.

If Offender, for secretly stealing from the Person, be attainted and pardoned, upon Condition of Transportation, and return, &c. before his Time into Great Britain or Ireland, he is subject to the Statute of 4 Geo. I. c. 11. and 6 Geo. I. c. 23.

L E A D.

Indictment for unlawfully receiving stolen Lead.

London. **T**HE Jurors for our Lord the King upon their Oath present, That S. C. late of *London*, Widow, and A. J. late of *London*, Yeoman, being common Buyers and Receivers of stolen Lead, Iron, Bell-Metal, and other Things, on the second Day of *March*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at *London*, that is to say, at the Parish of *Allhallows upon the Wall*, in the Ward of *Broadstreet*, in *London* aforesaid, unlawfully and unjustly did buy and receive, and each of them did buy and receive, two Pounds and one Half-pound Weight of Bell-Metal, of the Value of Seventeen-pence; thirty-two Pounds Weight of Lead, of the Value of four Shillings; and six Pounds Weight of Iron, of the Value of Nine-pence, of the Goods and Chattels of one J. D. (then lately before feloniously stolen, taken, and carried away, by one G. B. and one T. H. as yet unknown to the said Jurors.)

Jurors.) They the said *S.* and *A.* and each of them then and there knowing the same to be stolen and unlawfully come by, against the Form of the Statute in that Case lately made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath further present for our said Lord the King, That the said *S. C.* and *A. J.* afterward, to wit, the same Day and Year aforesaid, with Force and Arms, at *London* aforesaid, that is to say, at the Parish and Ward aforesaid, unlawfully and unjustly, in a clandestine Manner, at Under-Rates, Prices, and Values, did buy and receive, and each of them did buy and receive, from the aforesaid *G. B.* and *T. H.* other two Pounds and one Half-pound Weight of Bell-Metal, of the Value of Ten-pence; other thirty-two Pounds Weight of Lead, of the Value of four Shillings; and other six Pounds weight of Iron, of the Value of Six-pence, the Goods and Chattels of the aforesaid *J. D.* there lately before feloniously stolen, taken, and carried away by certain ill-disposed Persons, against the Form of the Statute, &c. and against the Peace, &c.

Second Count
for buying at
Under-Rates.

By Stat. 29 Geo. cap. 30. (under Title Stolen Goods)
Every Person who shall buy or receive any Lead, Iron, Copper, Brass, Bell-Metal, or Solder, knowing the same to be stolen or unlawfully come by, or shall privately buy or receive any stolen Lead, &c. by suffering any Door, Window, or Shutter to be left open or unfastened between Sun-setting and Sun-rising, for that Purpose; or shall buy or receive the same, or any of them, at any Time, in any clandestine Manner, shall be transported for fourteen Years (although principal Felon have not been convicted of Stealing.)

For

For Felony, in stealing Lead fixed to a Dwelling-house, and against the Aider, Assister, and Receiver.

London. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Dunstan in the West*, in the City of *London*, Labourer, after the twenty-fourth Day of *June*, in the Year of our Lord One thousand seven hundred and thirty-one, to wit, on the twenty-sixth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, sixty Pounds Weight of Lead, of the Value of four Shillings, belonging to *C. D.* and then and there fixed to the Dwelling-House of the said *C. D.* feloniously did rip, steal, take, and carry away, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Against the Aider and Assister.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That *C. W.* late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex* aforesaid, Labourer, on the said twenty-sixth Day of *September*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish of *St. Dunstan in the West* aforesaid, in the City of *London* aforesaid, feloniously was present, aiding, abetting, and assisting the said *A. B.* in stealing the said sixty Pounds Weight of Lead, so as aforesaid fixed to the said Dwelling-

Dwelling-House, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Against the Receiver.

AND the Jurors aforesaid, upon their Oath aforesaid, do further present, That *E. F.* late of the Parish of St. *Andrew, Holbourn*, in the County of *Middlesex*, afterward, to wit, on the said twenty-sixth Day of *September*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish last aforesaid, in the County aforesaid, the said sixty Pounds Weight of Lead so as aforesaid, feloniously stolen, feloniously did receive (he the said *E. F.* then and there well knowing the said sixty Pounds Weight of Lead to have been feloniously stolen) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

The ripping, taking, and carrying away Lead, or any other Thing fixed to a Freehold, was formerly but a Misdemeanor, but now, by Stat. 4 Geo. 2. c. 32. To steal, rip, cut, or break, with Intent to steal any Lead or Iron Bar, Iron Grate, Iron Palisado, or Iron Rail fixed to any Dwelling-House, or other Building used with such Dwelling-House, or fixed in any Garden, Orchard, Court, Yard, or Fence, or Out-let belonging to any Dwelling-House, or other Building, is Felony. And so it is in the Aiders, Abettors, and Assisters, and such as shall buy or receive such Lead or Iron, knowing the same to be stolen.

Principals to be transported for seven Years. Accessories to have the like Punishment.

334 Precedents of Indictments, &c.

The Indictments must conclude against the Form of the Statute, being a Felony created by it.

It is a perpetual Law, and no time limited to prosecute.

Note, The Offenders may be indicted all together in one Indictment in the above Manner.

L I B E L S.

For printing and publishing a Libel against Peers, Bishops, and Commons.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. R.* late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex*, Printer, being a malicious and seditious Man, and of a depraved Mind, and wicked and diabolical Disposition, and also deceitfully, wickedly, and maliciously contriving and abetting against the Most Honourable Sir *R. W.* Knight of the Most Noble Order of the Garter, Chancellor and under Treasurer of the *Exchequer* of our said Lord the King, and one of the Commissioners of our said Lord the King, for executing the Office of Treasurer of the *Exchequer* of our said Lord the King, and one of the Privy Council of our said Lord the King, to detract, scandalize, and vilify, and to represent the said Sir *R. W.* as an unjust Officer and Minister, and little fit to be used and intrusted by our said Lord the King in the weighty Affairs of this Kingdom, and also to bring the said Sir *R. W.* (as much as in him the said *W. R.* lay) into an ill Opinion, Hatred, and Contempt, not only with all his Majesty's Leige Subjects, but also with our said Lord the King himself, and also deceitfully, wickedly, and maliciously contriving and abetting to detract, scandalize,

lize, and vilify the Peers of this Realm, the Bishops of the Church of *England*, by Law established, and the Members of the Honourable House of Commons of this Kingdom, and to represent the said Peers, Bishops, and Members of the House of Commons as corrupt Persons, and to bring them into great Scandal, Infamy, and Hatred with all the Liege Subjects of our said Lord the King, and for that Purpose did, on the sixth Day of *July*, in the first Year of the Reign of our said Sovereign Lord *George* the Third, now King of *Great Britain, France, and Ireland*, Defender of the Faith, with Force and Arms, at the said Parish of *St. Martin in the Fields*, in the said County of *Middlesex*, wickedly and maliciously print and publish, and cause to be printed and published a certain scandalous and seditious Libel, intituled, *Robin's Reign, or Seven's the Main, being an Explanation of C. D.'s seven Egyptian Hieroglyphicks prefixed to the seven Volumes of the Craftsman. The Dye is flung*; in which said Libel of and concerning the said Sir *R. W.* and the said Peers, Bishops, and Commons of this Kingdom, and also of and concerning the Votes given by the said Peers, Bishops, and Commons is contained, among other Things, diverse scurrilous, feigned, scandalous, seditious, and malicious Matters, according to the Tenor following, to wit, see *R——t* (meaning the said Sir *R. W.*) *C——s* (meaning the said Members of the said House of Commons of this Kingdom) *L——ds* (meaning the said Lords of this Kingdom) and *B——s* (meaning the said Bishops of the Church of *England* by Law established) *buy, speak then Spectator is Corruption high: Mark well the Visage of each slavish Tool; The Blockhead, Hipocrite, and gawdy Fool; 'Tis these great Men* (meaning the said Peers, Bishops, and Members of the said House of Commons) *who give our Wealth away; Borrow in P——s* (meaning Pen-
sions)

336 Precedents of Indictments, &c.

sions) *but in V—s* (meaning the Votes of the said Lords, Bishops, and Commons) *they pay; Like Judas thus for Gold betray the State; His Crimes they* (again meaning the said Lords, Bishops, and Commons) *share, And may they* (again meaning the said Lords, Bishops, and Commons) *share his Fate;* to the great Scandal and Infamy of the said Sir R. W. and also of the said Peers, Bishops, and Members of the said House of Commons of this Kingdom, in Contempt of our said Lord the King, and of his Laws, to the evil and pernicious Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For sending a scandalous and libellous Letter to a Person.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, that G. D. late of the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, Gent. being a Person of evil Name, Fame, and dishonest Conversation, on the seventh Day of *September*, in the first Year of the Reign of our Sovereign Lord George the Third, now King of *Great Britain, &c.* and diverse others Days and Times before, at the Parish aforesaid, in the County aforesaid, wickedly contriving and intending one J. T. Gent. to deprive of his good Name, Fame, and Credit, and him the said J. T. to bring to the greatest Hatred, Scandal, Contempt and Infamy, with all the liege Subjects of our said Lord the King; and such Contrivance, Intention, and Practice to compleat, perfect, and render effectual, he the said G. D. on the said seventh Day of *September*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, a certain
false,

false, scandalous, and libellous Writing against the said *J. T.* falsely, maliciously, and scandalously did frame and make, and in the Name of him the said *G. D.* then and there did cause to be writ and published, in the Form of a Letter, directed to him the said *J. T.* the Tenor of which said Writing is as followeth: “ To *J. T.* These, Scoundrel, (meaning the said *J. T.*) it may not be amiss to acquaint you, (meaning him the said *J. T.*) as the Time draws near, you (meaning the said *J. T.*) may be preparing yourself (meaning again the said *J. T.*) for a Trial at *Chelmsford*, for stealing the Turkies out of Mr. *L.*’s Yard, when I (meaning himself the said *G. D.*) hope you’ll meet your deserved Fate as to that Fact, and wish it had been of a higher Nature, that you (meaning again the said *J. T.*) might have had Judgment of Death, and been hanged, you Rogue, Murderer, and Thief (meaning that he the said *J. T.* was a Rogue, Murderer, and Thief) so that I (meaning himself, the said *G. D.*) might have made a Holiday to see you, (meaning the said *J. T.*) sing a Neck Psalm, and perish according to Law, you Helhound: (meaning the said *J. T.*) Subscribed *G. D.* (meaning himself, the said *G. D.*)” And that he the said *G. D.* with Intention to scandalize the said *J. T.* and to bring him to Contempt, the said false, malicious, and scandalous libellous Writing, so as aforesaid framed and made, afterwards, to wit, on the said seventh Day of *September*, in the Year aforesaid, and diverse other Days and Times then aforesaid, at the Parish aforesaid, in the County aforesaid, to diverse Subjects of our said Lord the King, then and there present, falsely, maliciously and scandalously did deliver, and cause to be delivered, to the great Scandal, Infamy, and Damage of the said *J. T.* to the evil Example of all others in the like

338 **Precedents of Indictments, &c.**

Cafe offending, and against the Peace of our Lord the King, his Crown and Dignity.

A Libel, Libellus, literally signifieth a little Book, but by Use it is the original Declaration of an Action in Civil Law, 2 H. 5. 3. & 2 E. 6. 13. It signifies also a criminous Report of any Man cast abroad, or otherwise unlawfully published, and then called Famosus Libellus; and this is either in Scriptis, aut sine Scriptis: In Scriptis is, when an Epigram, or other Writing, is composed or published to any other's Disgrace, which may be done Verbis aut Cantilenis; as where this is maliciously repeated or sung in the Presence of others; or else Traditione, when the Libel, or any Copy of it, is delivered over to scandalize the Party. Famosus Libellus sine Scriptis may be twofold; 1. Picturis, as to paint the Party in a shameful and ignominious Manner; or 2. Signis, as to fix a Gallows, or other ignominious Sign at the Door of the Party, or elsewhere. Co. 5. Rep. de Famosis Libellis.

Printing or Writing any Thing, either to blacken the Memory of the Dead, or the Reputation of one who is alive, and to expose him to publick Hatred, Contempt, or Ridicule, is a Libel.

N. B. You may read of Libels, sufficient to answer every Purpose, in 1 Hawk. Pleas of the Crown, cap. 73.

L I N E N.

An Indictment of Felony for stealing Linen from a Bleaching Croft.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of _____ in the County of *Surry,*

Surry, Labourer, on the Day of
in the first Year of our Sovereign Lord George
the Third, now King of Great Britain, &c. with
Force and Arms, at the Parish aforesaid, in the
County aforesaid, thirty Yards of Linen, of the
Value of thirty Shillings, of the proper Goods and
Chattels of C. D. of the Parish aforesaid, in the
County aforesaid, Whitster, then and there being
laid, placed, and exposed to be whitened in a cer-
tain bleaching Croft, of the said C. D. situate, ly-
ing, and being in the Parish aforesaid, in the County
aforesaid, feloniously did steal, take, and carry
away, against the Peace of our said Lord the King,
his Crown and Dignity.

By the Stat. 18 Geo. 2. c. 27. It is enacted, That every Person who shall, by Day or Night, feloniously steal any Linen, Fustian, Callico, Cotton, Cloth, or Cloth worked, woven, or made of any Cotton or Linen Yarn mixed, or any Thread, Linen, or Cotton Yarn, Linen or Cotton Tape, Inkle, Filleting, Laces, or any other Linen, Fustian, or Cotton Goods, or Wares whatsoever, laid, placed or exposed to be printed, whitened, bowked, bleached or dried in any whitening or bleaching Croft, Lands, Fields or Grounds, Bowk- ing-House, Drying-House, Printing-House, or other Building, Ground, or Place, made use of by any Callico-Printer, Whitster, Crofter, Bowker, or Bleacher, for printing, whitening, bowking, bleaching, or dry- ing of the same, to the Value of ten Shillings, or who shall aid or assist, or shall wilfully or maliciously hire or procure any other Person or Persons to commit any such Offence, or who shall buy or receive such Goods or Wares so stolen, knowing the same to be stolen as afore- said, being lawfully convicted thereof, shall be, and is hereby declared to be guilty of Felony, and shall suffer Death, as in Cases of Felony, without Benefit of Clergy. But the Judge or Court may, instead of giv-

Z 2

ing

340 **Precedents of Indictments, &c.**

ing Judgment of Death, order the Offender to be transported for fourteen Years; and if the Offender so ordered for Transportation, shall break Gaol or escape before Transportation, or shall return from Transportation, without lawful Cause, before the Expiration of the fourteen Years, he shall suffer Death.

L O D G E R S.

An Indictment for stealing Goods let by Contract, to be used with a Lodging.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *S. V.* late of the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, Widow, on the ninth Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one flaxen Sheet of the Value of six Shillings, and two brass Candlesticks of the Value of three Shillings, of the Goods and Chattels of one *F. S.* (the same Goods and Chattels being in a certain Lodging-Room, in the Dwelling-House of the said *F. S.* there situate, let by Contract by the said *F. S.* to the said *S. V.* and to be used by the said *S. V.* with the Lodging aforesaid) then and there being found, feloniously did steal, take, and carry away, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 3 & 4 W. & M. c. 9. If any Person shall steal any Chattels, &c. which by Contract or Agreement they are to use, or shall be let to them in Lodgings,

L O T T E R I E S. 341

Lodgings, such stealing shall be adjudged Larceny and Felony.

This Offence was formerly before the making of this Act but a Trespass; therefore the Indictment must conclude against the Form of the Statute, as it is created Felony by the Statute.

L O T T E R I E S.

For setting up a Lottery.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *R. B.* late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, Fan-painter, and *E.* his Wife, being ill-disposed Persons, little regarding the Laws and Statutes of this Realm, and not fearing the Pains and Penalties therein contained, on the ninth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, did publickly set up and exercise a certain Lottery, for the Disposal of divers Goods, Wares, and Merchandises; and the said *R. B.* and *E.* his Wife did then and there expose the said Lottery to be played at and drawn at, by the Subjects of our said Lord the King, for the Sum of Six-pence, paid to them the said *R. B.* and *E.* his Wife, for each Ticket in the said Lottery, in Contempt of our said Lord the King and his Laws, to the common Nuisance of all the Subjects of our said Lord the King, to the evil Example of all others in the like Case offending, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Z 3

By

By Stat. 10 & 11 W. 3. c. 17. *It is enacted, That many mischievous and unlawful Games called Lotteries, have, for diverse Years last past, been set up in most of the eminent Cities and Towns in this Kingdom, by Colour of several Patents under the Great Seal for the said Lotteries, or some of them; it is enacted and declared, That all such Lotteries are common publick Nuisances, and that all Grants, Patents, and Licences for Lotteries, are void and against Law.*

That after the twenty-ninth of December, One thousand six hundred and ninety-nine, none shall publickly or privately exercise, keep open, shew, or expose to be played at, drawn at, or thrown at, or shall draw, play, or throw at any such Lottery, either by Dice, Lots, Cards, Balls, or any other Numbers or Figures, or any other Ways whatsoever; and every Person so exercising, &c. any such Lottery, &c. shall, for every such Offence, forfeit five hundred Pounds, one third to the King, another to the Poor, and the other (with double Costs) to the Informer or Prosecutor; and the Offenders shall likewise be prosecuted as common Rogues. Every Person that shall play, throw, or draw at any such Lottery, &c. shall, for every Offence, forfeit twenty Pounds to the Uses aforesaid.

By the Stat. 8 Geo. 1. c. 2. *Every Person who shall erect, set up, continue or keep any Office or Place, under the Denomination of Sales of Houses, Lands, Advowsons, Presentations to Livings, Plate, Jewels, Ships, Goods, or other Things, for the Improvement of small Sums of Money; or shall sell or expose to Sale, any Houses, &c. by Way of Lottery, or by Lots, Tickets, Numbers, or Figures; or who shall make, print, advertise, or publish, or cause to be made, printed, advertised, or published, Proposals or Schemes for advancing of small Sums of Money by several Persons, amounting in the Whole to large Sums, to be divided among them, by the Chances of the Prizes in*
some

some publick Lottery or Lotteries; or shall deliver out, or cause or procure to be delivered out, Tickets to Persons advancing such Sums, to intitle them to a Share of the Money so advanced, according to such Proposals or Schemes, or shall make, print, or publish, or cause to be made, &c. any Proposal or Scheme of the like Nature, under any Denomination or Title whatsoever, and shall be thereof convicted on the Oath of one or more credible Witnesses, by two or more Justices of the Peace of the County, &c. where such Offence shall be committed, or the Offender found; the Person so convicted, shall, for every Offence (over and above any former Penalties inflicted by any Act of Parliament made against private and unlawful Lotteries) forfeit five hundred Pounds, one third to the Crown, one other to the Informer, and the remaining third to the Poor of the Parish where the Offence shall be committed, to be levied by Distress and Sale of the Offender's Goods, by Warrant of the Justices before whom convicted; and shall also for every such Offence be committed by the said Justices to the County Gaol without Bail or Mainprize for one whole Year, and from thence till the said five hundred Pounds be fully paid: But Persons aggrieved by the Determination of such Justices, may appeal to the next Quarter Sessions for the County, &c. whose Judgment shall be final.

Adventurers in such Sales and Lotteries, &c. shall forfeit double the Sum contributed to the same. 8 Geo.

1. c. 2. See the Stat. 12. Geo. 2. c. 28. 13 Geo.

2. c. 19. 18 Geo. 2. c. 34.

M A I M I N G.

*An Indictment of Felony; by slitting a Nose,
and against the Aider and Abetter.*

Suffolk. **T**HE Jurors for our Lord the King upon their Oath present, That *J. W.* late of the Borough of *Bury St. Edmond*, in the County of *Suffolk*, Labourer, and *A. C.* late of the Borough aforesaid, in the County aforesaid, Esq; after the twenty-fourth Day of *June*, in the Year of our Lord One thousand six hundred and seventy, to wit, on the first Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* contriving and intending one *E. C.* then and yet being a Subject of our said Lord the King, to maim and disfigure, at the Borough aforesaid, in the County aforesaid, with Force and Arms, in and upon the said *E. C.* in the Peace of God, and our said Lord the King, then and there being, on Purpose, and of Malice afore-thought, and by lying in wait, unlawfully and feloniously did make an Assault, and the said *J. W.* with a certain Iron Bill, of the Value of one Penny, which he the said *J. W.* in his Right Hand then and there had and held, the Nose of the said *E. C.* on Purpose, and of his Malice afore thought, and by lying in wait, then and there, unlawfully and feloniously did slit, with Intention, the said *E. C.* in so doing, in Manner aforesaid to maim and disfigure; and that the aforesaid *A. C.* at the Time the aforesaid Felony, by the said *J. W.* in Manner and Form aforesaid, was done and committed, to wit, on the said first Day of *January*, in the first Year of the Reign aforesaid, at the Borough aforesaid, in the County

County aforesaid, with Force and Arms, on Purpose, and of his Malice afore-thought, and by lying in wait, unlawfully and feloniously was present, aiding and abetting the said *J. W.* in the Felony aforesaid, in Manner and Form aforesaid, done and committed. And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *J. W.* and *A. C.* on the said first Day of *January*, in the first Year of the Reign aforesaid, at the Borough aforesaid, in the County aforesaid, with Force and Arms, on Purpose, and of their Malice afore-thought, and by lying in wait, the Felony aforesaid, in Form aforesaid, unlawfully and feloniously did do and commit, and each of them did do and commit, against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

By the Stat. 22 & 23 Car. 2. c. 1. *If any shall of Malice afore thought, and by lying in wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose or Lip, or cut off or disable any Limb or Member of any Person, with Intention to maim and disfigure, they, their Counsellors, Aiders, and Abettors, shall be guilty of Felony without Benefit of Clergy.*

Attainder on this Statute shall not work any Corruption of Blood or Forfeiture.

Sir J. Coventry, a Member of the House of Commons, had, a little before the making of this Act, been assaulted in the Street, and his Nose slit, which was the Occasion of making this Act; therefore it is called Coventry's Act.

Upon this Statute A. C. and J. W. were tried, condemned, and executed at Suffolk Assises, 8 Geo. 1. for slitting the Nose of Mr. C. See Stra. 1100.

M A R R I A G E.

Indictment of Felony for solemnizing Matrimony without Licence, &c.

Middlesex. **T**HE Jurors for our Sovereign Lord the King upon their Oath present, That J. G. late of the *Savoy*, in the said County of *Middlesex*, Clerk, after the twenty-fifth Day of *March*, in the Year of our Lord One thousand seven hundred and sixty, to wit, on the twenty-seventh Day of *June*, in the first Year of the Reign of our said present Sovereign Lord *George* the Third, by the Grace of God, of *Great Britain, France and Ireland*, King, Defender of the Faith, and so forth, with Force and Arms, at the *Savoy* aforesaid, in the County of *Middlesex* aforesaid, did unlawfully, knowingly, wilfully, and feloniously solemnize Matrimony between J. N. late of the Parish of *St. Paul, Covent-Garden*, in the County of *Middlesex*, then a Batchelor, and one J. P. then a single Woman, without Publication of Banns of Marriage in that Behalf, and without any Licence of Marriage in that Behalf first had or obtained, from any Person or Persons having Authority to grant the same, in Contempt of our said present Sovereign Lord the King and his Laws, to the evil and pernicious Example of all others in the like Case offending, against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in such Case made and provided.

By 26 Geo. 2. c. 33. *Solemnizing Marriage in any other Place than Church or Chapel, &c. (unless by special Licence from the Arch Bishop of Canterbury) or without Publication of Banns, unless Licence of Marriage be first obtained, deemed Felony, and Offender transported for fourteen Years.*

M U R-

M U R D E R, &c.

An Indictment for Felony and Murder by stabbing with a Knife.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. S.* late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Labourer, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the twelfth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *J. M.* in the Peace of God, and our said Lord the King, then and there being, feloniously, wilfully, and of his Malice afore-thought, did make an Assault; and that he said *A. S.* with a *Deodand.* certain Knife of the Value of Six-pence, which he the said *A. S.* in his right Hand then and there had and held, the said *J. M.* in and upon the left Side of the Belly, between the short Ribs of him the said *J. M.* then and there feloniously, wilfully, and of his Malice afore-thought, did strike and thrust, giving to the said *J. M.* then and there, with the Knife aforesaid, in and upon the abovesaid left Side of the Belly, between the short Ribs of him the said *J. M.* one mortal Wound of the Breadth of three Inches, and Depth of six Inches, of which said mortal Wound, the said *J. M.* from the said twelfth Day of *October*, in the Year aforesaid, until the fifteenth Day of the same Month of *October*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did languish, and languish-

348 **Precedents of Indictments, &c.**

languishing did live, on which said fifteenth Day of *October*, in the Year aforesaid, the said *J. M.* at the Parish aforesaid, in the County aforesaid, of the said mortal Wound died. And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *A. S.* the said *J. M.* in Manner and Form aforesaid, feloniously, wilfully, and of his Malice afore-thought, did kill and murder, against the Peace of our said Lord the King, his Crown and Dignity.

An Indictment for Felony and Manslaughter, by stabbing the Party slain, not having stricken the Slayer first, nor having any Weapon drawn.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *S. B.* late of the Precinct of *St. Catherine*, in the County of *Middlesex*, Gent. not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the fourteenth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Precinct aforesaid, in the County aforesaid, in and upon one *J. D.* in the Peace of God, and our said Lord the King, then and there being, feloniously, and in the Fury of his Mind, did make an Assault; and that the said *S. B.* with a certain drawn Sword, of the Value of three Shillings, which he the said *S. B.* in his right Hand then and there had and held, the said *J. D.* in and upon the right Side of the Belly, near the short Ribs of him the said *J. D.* (the said *J. D.* then and there not having any Weapon drawn, nor the said *J. D.* then and there having first stricken the said *S. B.*) then and

and there, in the Fury of his Mind, feloniously did strike and stab, giving unto the said J. D. then and there, with the Sword aforesaid, in and upon the said right Side of the Belly, near the short Ribs of him the said J. D. one mortal Wound of the Breadth of four Inches, and Depth of seven Inches, of which said mortal Wound, he the said J. D. then and there instantly died. And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said S. B. the said J. D. in Manner and Form aforesaid, then and there feloniously, and in the Fury of his Mind, did kill and slay, against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

By the Stat. 1 Jac. 1. c. 8. intituled, An Act to take away the Benefit of Clergy for some kind of Manslaughter, it is enacted, That every Person and Persons which shall stab, or thrust any Person or Persons, that hath not then any Weapon drawn, or that hath not then first stricken the Party which shall so stab or thrust, so as the Person or Persons so stabbed or thrust, shall therefore die within the Space of six Months the next following, although it cannot be proved that the same was done of Malice afore-thought, yet the Party so offending, and being thereof convicted by Verdict of twelve Men, Confession, or otherwise, according to the Laws of this Realm, shall be excluded from the Benefit of Clergy, and suffer Death as in Case of wilful Murder.

Provided, that this Act shall not extend to any Person or Persons which shall kill any Person or Persons Se defendendo, or by Misfortune, or in any other Manner than as aforesaid, nor to any Person or Persons which in keeping and preserving the Peace, shall chance to commit Manslaughter, so as the said Manslaughter be not committed wittingly, willingly,
and

350 **Precedents of Indictments, &c.**

and of Purpose, under pretext and colour of keeping the Peace, nor shall extend to any Person or Persons, which in chastizing or correcting a Child or Servant, shall, besides his or their Intent and Purpose, chance to commit Manslaughter.

This Statute, the Lord Chief Justice Hale, in his Historia placitorum Coronæ, Vol. i. p. 456. says, was but provisional, because the Juries were apt, upon any verbal Provocation, to find the Fact to be Manslaughter; (and further, says my Lord) Many who were of Opinion, that bare Words of slighting, disdain, or contumely, would not of themselves make such a Provocation, as to lessen the Crime into Manslaughter, yet were of this Opinion, that if A gives indecent Language to B, and B thereupon strikes A, but not mortally, and then A strikes B, and then B kills A, that this is but Manslaughter, for the second Stroke made a new Provocation, and so it was but a sudden falling out, and though B gave the first Stroke, and after a Blow received from A. B gives him a mortal Stroke, this is but Manslaughter according to the Proverb, 'the second Blow makes the Affray;' and this was the Opinion of his Lordship, and some others.

The Words of the Statute are stab or thrust, if the stabbing or thrusting were with Sword or Pikestaff, it is within the Statute; so it seems, if it be a Shot with a Pistol, or Blow with a Sword or Staff; yet Quare, for Justice Jones denied it.

It has been usual in Cases of this Nature, to prefer two Indictments, one for Murder, another upon this Statute, and put the Prisoner to plead to both, and to charge the Jury with the Indictment of a Murder, and if they find it not Murder, then to charge them to inquire upon the other Indictment, because if convicted upon either, the Offender is ousted of Clergy.

The Indictment to put the Prisoner from his Clergy, must be specially formed, pursuant to the Statute, viz.

that he did with a Sword, &c. stab the Party dead, he having no Weapon drawn, nor having stricken first, *as in the above Precedent, otherwise it will be but a common Manslaughter, and the Party will have his Clergy.*

The Indictment need not conclude, against the Form of the Statute, no more than in Burglary or Robbery, for the Statute doth not make the Offence to be Felony, but ousts the Prisoner of his Clergy, where the Crime is so circumstantiated, as the Statute expresseth: This was agreed in the Case of P. and H. H. 23 Car. 1. B. R. Aleyn. 44. Styl. 86. But it is safe to conclude against the Form of the Statute; for this Case, as reported in Style 86, is not agreed to be so; on the contrary, it was denied by Roll.

Hale's Historia
placitorum Cor.

No man is ousted of Clergy by this Statute, but he that actually stabs, &c. therefore Aiders and Assisters in such Case, can be only found guilty of simple Manslaughter, and have their Clergy.

*The twenty second of March, 14 Car. 1. at Newgate Sessions, D. W. was indicted specially upon this Statute; for that he with a certain Hammer, made of Wood and Iron, out of his right Hand, against and to the Forehead of F. M. feloniously, and in the Fury of his Mind, did fling, and with the said Hammer, the said F. M. in and upon his Forehead, feloniously, and in the Fury of his Mind, did strike, stab, and thrust, the said F. M. having no Weapon drawn, nor struck first, whereof he instantly died; and so in Manner and Form aforesaid, the said F. M. did feloniously kill and slay, against the Form of the Statute. The Prisoner pleaded Not Guilty; and a special Verdict was found, viz. that upon St. David's Day, the Prisoner being a Welshman, had a Leek in his Hat, and that there was, at the same Time, a Waggersy, a Jack-a-lent, in the Street put up, with a Leek, and one N. R. a Porter, spoke to
the*

352 *Precedents of Indictments, &c.*

the Prisoner, and pointing to the Jack-a-lent, said, Look at your Countryman. The Prisoner being therewith enraged, threw a Hammer at R. to the Intent feloniously to hit him, but missing him, the Hammer hit F. M. whereof he died; and so the said D. the said F. with the said Hammer, did stab and thrust, the said F. then not having any Weapon drawn, nor then having first striken the said D. and it was adjudged by Bramston, Jones, and the Recorder Gardiner, that W. was guilty of Manslaughter at Common Law, but not against the Form of the Statute; so that it seems, they thought not this to be a Stabbing, within the Statute, being done with the Throwing of the Hammer; or at least they took the killing of M. which was not at all intended by W. to be out of the Statute, though it excused him not for Manslaughter, at Common Law. 1 Jones, 432.

Lord Chief Justice Holt, in Mawgridge's Case, Keyl. 131, Holt 484, concurs with this Judgment, for that it was not such a Weapon or Act as is within the Statute of Stabbing; but he is of Opinion, that W. ought to have been found guilty of Murder, if the Indictment had been so laid, for that there was not a sufficient Provocation, to lessen the Offence to Manslaughter.

An Indictment for Felony and Murder, by shooting with a Pistol, and against the Aiders and Assisters.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That S. D. late of the Parish of *Hendon*, in the County of *Middlesex*, Labourer, R. S. late of the same, Labourer, and T. S. late of the same, Labourer, not having the Fear of God before their Eyes, but being moved and seduced by the Instigation of the Devil,

Devil, on the twenty-first Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon *T. K.* in the Peace of God, and our said Lord the King, then and there being, feloniously, wilfully, and of their Malice before-thought, did make an Assault, and that the said *R. S.* a certain Pistol, of the Value of five Shillings, then and there, charged with Gun-powder, and one Leaden Bullet, which Pistol, he the said *R. S.* in his right Hand, then and there had and held, to, against, and upon the said *T. K.* then and there, feloniously, wilfully, and of his Malice before-thought, did shoot and discharge; and that the said *R. S.* with the Leaden Bullet aforesaid, out of the Pistol aforesaid, then and there, by Force of the Gun-powder, shot and sent forth as aforesaid, the aforesaid *T. K.* in and upon the left Breast of him the said *T. K.* a little above the left Pap of him the said *T. K.* then and there, with the Leaden Bullet aforesaid, out of the Pistol aforesaid, by the said *R. S.* so as aforesaid shot, discharged, and sent forth, feloniously, wilfully, and of his Malice before-thought, did strike, penetrate, and wound, giving to the said *T. K.* then and there, with the Leaden Bullet aforesaid, so as aforesaid shot, discharged, and sent forth, out of the Pistol aforesaid, by the said *R. S.* in and upon the said left Breast of him the said *T. K.* a little above the left Pap of him the said *T. K.* one mortal Wound, of the Depth of four Inches, and of the Breadth of half an Inch, of which said mortal Wound the aforesaid *T. K.* then and there instantly died; and that the aforesaid *S. D.* and *T. S.* then and there, feloniously, wilfully, and of their Malice before-thought, were present, aiding, helping, abetting, comforting, assisting, and maintaining the said *R. S.*

A a

the

354 **Precedents of Indictments, &c.**

the Felony and Murder aforesaid, in Manner and Form aforesaid, to do and commit. And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said R. S. S. D. and T. S. the said T. K. then and there, in Manner and Form aforesaid, feloniously, wilfully, and of their Malice before-thought, did kill and murder, against the Peace of our said Lord the King, his Crown and Dignity.

Note, That Malice afore-thought, is as frequently used as before-thought, but rather the Word afore-thought.

Note, Though but one Person gives the Stroke, all present, aiding and assisting, are equally culpable, and deemed Principals in Murder; but anciently, he that struck the Stroke, whereof the Party died, was only Principal, and those that were present, aiding and assisting, were but in the Nature of Accessaries, and should not be put upon their Trial, till he that gave the Stroke was attainted by Outlawry or Judgment.

An Indictment for Felony and Murder; where the Stroke is given in one County, and the Party dies in another.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That J. S. late of *Hatfield*, in the County of *Hertford*, Yeoman, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of of the Devil, on the twenty-ninth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at *Hatfield* aforesaid, in the said County of *Hertford*, in and upon one S. P. in the Peace of God and our said Lord the King, then and there being, feloniously, wilfully,
and

and of his Malice afore-thought, did make an Assault and that the said J. S. with both his Hands and Feet, the said S. P. to and against the Ground, then and there feloniously, wilfully, and of his Malice afore-thought, did cast and throw; and the same S. P. so upon the Ground lying, he the said J. S. with both the Hands and Feet aforesaid of him the said J. S. the said S. P. in and upon the Head, Stomach, Back, and Sides of him the said S. P. then and there feloniously, wilfully, and of his Malice afore-thought, did strike, beat, and kick, giving to the said S. P. as well by the casting and throwing of him the said S. P. to the Ground aforesaid, as also by striking, beating, and kicking the said S. P. in and upon the Head, Stomach, Back, and Sides of him the said S. with both the Hands and Feet of him the said J. S. in Manner aforesaid, several mortal Bruises, of which said several mortal Bruises the said S. P. from the said twenty-ninth Day of *September*, in the Year aforesaid, until the first Day of *October* in the same Year, as well at *Hatfield* aforesaid, in the County of *Hertford* aforesaid, as also at the Parish of *Fryan Barnet*, in the County of *Middlesex*, did languish, and languishing did live; on which said first Day of *October*, in the said first Year of the Reign of our said now Lord the King, the said S. P. at the said Parish of *Fryan Barnet*, in the said County of *Middlesex*, of the several mortal Bruises aforesaid died. And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said J. S. the said S. P. in Manner and Form aforesaid, feloniously, wilfully, and of his Malice afore-thought, did kill and murder against the Peace of our said Lord the King, his Crown and Dignity.

356 **Precedents of Indictments, &c.**

* By the Stat. 2 & 3 Ed. 6. c. 24. it is enacted, *That where any Person or Persons shall be feloniously stricken or poisoned in one County, and die of the same Stroke or Poisoning in another County, that then an Indictment thereof, found by Jurors of the County where the Death shall happen, whether it shall be founden before the Coroner, upon the Sight of such dead Body, or before the Justices of Peace, or other Justices or Commissioners which shall have Authority to inquire of such Offences, shall be as good and effectual in the Law, as if the Stroke or Poisoning had been committed and done in the same County where the Party shall die, or where such Indictment shall be so founden; any Law or Usage to the contrary notwithstanding.*

And that the Justices of Gaol Delivery and Oyer and Terminer, in the same County where such Indictment at any Time shall be taken, and also the Justices of the King's Bench, after such Indictment shall be removed before them, shall and may proceed upon the same in all Points, as they should or ought to do, in Case such felonious Stroke, and Death thereby ensuing, or Poisoning, and Death thereof ensuing, had grown all in one and the same County.

Murder and Manslaughter differ not in Kind or Nature of the Offence, but only in the Degree, the former being the killing a Man of Malice prepense; the latter upon a sudden Provocation and falling out. Therefore it is, that upon an Indictment of Murder, the Offender may be, and often is, acquitted of Murder, and yet found guilty of Manslaughter.

The Difference between the Offences of Murder and Manslaughter, rest in these Particulars;

* The Trial of Man-quellers, that poison or strike a Man in one County, which dieth thereof in another.

1. *In Degree and Quality of the Offence, for Murder, as aforesaid, is accompanied with premeditated Malice, either express or presumed; but bare Homicide is upon a sudden Provocation or falling out.*

2. *Therefore in Murders there may be Accessories before as well as after, because it is an Act of Deliberation, and not merely of sudden Passion: But in bare Homicide, or Manslaughter, there can be no Accessories before, though there may be Accessories after; and therefore upon an Indictment for Murder against A, and against B and C for counselling and abetting as Accessories before only, and not as present, (for such are Principals,) if A be found guilty only of Manslaughter, and acquitted of Murder, the Accessories before are discharged.*

3. *The Indictment of Murder essentially requires these Words; feloniously, and of Malice aforethought, did kill and murder: But the Indictment of simple Homicide, is only feloniously did kill.*

4. *At Common Law, and by the Stat. 25 Edw. 3. c. 4. Clergy was promiscuously allowed, as well in Case of Murder, as of Homicide or Manslaughter; yet by the Stat. 23 H. 8. c. 1. 25 H. 8. c. 3. 1 E. 6. c. 12. 5 and 6 Edw. 6. c. 10. Clergy is taken away from Murder of Malice aforethought.*

Such Malice that makes the killing of a Man to be Murder, is of two Kinds; first, Malice in Fact; second, Malice in Law, or Presumption of Law. Malice in Fact, is a deliberate Intention of doing some corporal Harm to the Person of another.

1. *Malice in Law, or presumed Malice, is of several Kinds; viz. in Respect of the Manner of the Homicide, when without Provocation. 2. In Respect to the Person killed; viz. a Minister of Justice in Execution of his Office. 3. In Respect of the Person killing.*

358 *Precedents of Indictments, &c.*

Malice in Fact, is a deliberate Intention of doing any bodily Harm to another, whereunto by Law he is not authoris'd.

The Evidences of such Malice, must arise from external Circumstances, discovering the inward Intention, as lying in wait, menacing, former Grudgings, deliberate Compassings, and such-like, which are many, according to the Variety of Circumstances; it must be a Design to do some bodily Harm.

If there be an old Quarrel betwixt A and B, and they are reconciled again, and then upon a new and sudden Falling-out, A kills B, this is not Murder; but if upon Circumstances it appears, that the Reconciliation was but pretended or counterfeited, and that the Hurt was done upon a former Grudge, and old Malice, then it is Murder.

If there be Malice by A against B, and by B against A, and they meet, and upon Account of that Malice, A strikes B, and B thereupon kills A (otherwise than in his own necessary Defence) it is Murder in B; but if they meet accidentally, and A assaults B first, and B, merely in his own Defence, without any other malicious Design, kills A; this is not Murder, but upon a new and sudden Emergency for the Safeguard of his Life; but if A and B had met deliberately to fight, and A strikes B, and pursues B so closely, that B, in Safeguard, of his own Life, kills A, this is Murder in B; because their meeting was a Compact, and an Act of Deliberation; and therefore all that follows thereupon, is presumed to be done in Pursuance thereof, and thus is Mr. Dalton, c. 93. p. 241. to be understood.

If A commands B to kill C, and before the Act done, repents and countermands B, and charges him not to do it, yet B doth it, A is not guilty. Co. P. Cr. p. 51.

If A and B fall suddenly out, and they presently agree to fight in the Field, and fight, and A kills B, this

this is not Murder, but Homicide; for it is but a Continuance of the sudden Felling-out, and the Blood was never cooled; but if there were Deliberation, as that they meet the next Day; nay, though it were the same Day, if there were such a competent Distance of Time, that in a common Presumption they had Time of Deliberation, then it is Murder. Co. P. C. p. 51.

A the Son of B, and C the Son of D, fall out in the Field and fight; A is beaten, and runs home to his Father all bloody, B presently takes a Staff, runs into the Field, being three Quarters of a Mile Distance, and strikes C that he dies; this is not Murder in B, because done in sudden Heat and Passion. T. 9 Jac. B. R. 12 Co. Rep. p. 87. Cro. Jac. 296. Royley's Case.

A Boy came into Osterly Park to steal Wood, and seeing the Woodward, climbs up a Tree to hide himself; the Woodward bids him come down; he comes down, and the Woodward struck him twice, then bound him to his Horse's Tail, and dragged him till his Shoulder was broke, whereof he died; it was ruled Murder; because, first, the Correction was excessive; and second, it was an Act of deliberate Cruelty. M. 4 Car. B. R. Holloway's Case. Cro. Car. 131. Palm. 545. 1 Jones 198.

If a Master designeth moderate Correction to his Servant, and accordingly useth it, and the Servant by some Misfortune dies thereof, this is not Murder, but by Misfortune. Crompt. 136. Dalt. cap. 148, p. 478. because the Law alloweth him to use moderate Correction, and therefore the deliberate Purpose thereof is not of Malice afore-thought.

If a Sheriff hath a Warrant to hang a Man for Felony, and he beheads him, this is held Murder, for it is an Act of Deliberation. Co. P. C. p. 52.

It may not be improper here, to shortly mention such Persons particularly, that are not chargeable with Homicide, and other some that are.

360 Precedents of Indictments, &c.

If one that is Non Compos Mentis, or an Idiot kill a Man, this is no Felony; for they have not Knowledge of Good and Evil, nor can have a felonious Intent, nor a Will or Mind to do Harm; and no Felony nor Murder can be committed without a felonious Intent and Purpose.

A Madman is without his Mind or Discretion, and is only, and enough punished by his Madness. Co. Lit. 247.

There are three Sorts of Persons accounted Non Compos Mentis:

1. *A Fool natural, who is so from his Birth, and in such a one there is no Hope of Recovery.*

2. *He who was once of good and sound Memory, and after (by Sickness, Hurt, or other Accident, or Visitation of God) loseth his Memory.*

3. *A Lunatic, sometimes of good Understanding and Memory, and sometimes not but Non Compos Mentis:*

If it appear by Circumstances, that an Infant under the Age of Discretion, could distinguish between Good and Evil, as if one of the Age of nine or ten Years kill another, and hide the Body or make Excuses, or hide himself, he may be convicted and condemned, and forfeit, &c. as much as if he were of full Age. But in such a Case the Judges will in Prudence respite the Execution, to get a Pardon: And it is said, that if an Infant apparently wanting Discretion, be indicted and found guilty of a Felony, the Judge may dismiss him without a Pardon. H. P. C. 43. 12 Afs. pl. 30. 3 H. 7. 1. 6. 12. 6. Bro. Coron. 74. 133. S. P. C. 16. f. H. P. C. 35. 35 H. 6. 11. 6. Bro. Cor. 6. 61. 1. H. H. P. C. 26. 27. 434. 569. 570. Regist. 309. 6. 1. Hawk. P. C. 2.

If a Man that is drunk killeth another, that is Felony of Death; for it is a voluntary Ignorance in him, and inasmuch as such Ignorance cometh to him by his own in his Act and Folly. Coke Lit. 247, calls a Drun-

NAVAL STORES. 361

a Drunkard Voluntarius Dæmon, and saith, that such a one hath no Privilege thereby, but what Hurt or Ill soever he doth, his Drunkeness doth aggravate it.

By Stat. 25 Geo. 2. c. 37. Murderers to be executed next Day but one after Sentence, and their Bodies delivered to the Surgeons to be anatomized, or hung in Chains, and not to be buried.

NAVAL STORES.

For having Naval Stores found in one's Custody.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. Y.* late of the Parish of *St. John, Wapping*, in the County of *Middlesex*, Labourer, and *L. K.* late of the same, Labourer, on the twelfth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain, &c.* being Persons of evil Name and Fame, and dishonest Conversation, and then or at any Time before, not being Contractors, nor either of them then or before being a Contractor with the principal Officers or Commissioners of our said Lord the King, of the Navy, Ordinance, or Victuallers, for the Use of our said Lord the King, nor then or at any Time before retained or employed by any such Contractor for that Use, with Force and Arms, at the Parish aforesaid, in the County aforesaid, then and there unlawfully had in the Custody and Possession of them the said *A. Y.* and *L. K.* one Cable-rope, containing in Length seventy Fathom, and in Thickness thirteen Inches, of the Value of forty Pounds of lawful Money of *Great Britain*, which said Cable-rope, then and there was wrought with the white Thread,

362 **Precedents of Indictments, &c.**

Thread, laid the contrary Way, (being the Sign with which the Cable-ropes, and other such warlike and naval Stores of our said Lord the King, then and before usually were, and yet are marked) against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do farther present, That the said Cable-rope (being of the Goods and warlike and naval Stores of our said Lord the King, and so as aforesaid wrought and marked) then and there was found in the Custody and Possession of them the said *A. Y.* and *L. K.* (they the said *A. Y.* and *L. K.* not being such Contractors, nor either of them being such Contractor, nor retained or employed, nor either of them retained or employed, as aforesaid, as by the Statute in such Case made and provided is required) to the Diminution of the warlike and naval Stores of our said Lord the King, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

If Canvas. One Piece of Canvas containing twenty Yards in Length, of the Value of ——— which said Piece of Canvas was marked with a blue Streak in the Middle (being the Mark with which the Canvas and other such warlike, &c. as above,

If Iron or Brass marked with the broad Arrow. One Iron Bolt of the Value of three Shillings, which said Iron Bolt was marked with the broad Arrow (being the Mark with which the Iron Bolts and other such like warlike,

&c. as before.

If many Sort of Goods were found in their Custody, then repeat them all thus, with which the Iron Bolt, Nails

N A V A L S T O R E S. 363

Nail, Hinges, Padlocks, and other such like, &c. as before.

By Stat. 9 & 10 W. 3. c. 41. §. 2. it is enacted, That such Person or Persons in whose Custody, Possession, or keeping, such Goods or Stores (marked as in the Statute is mentioned) shall be found, not being employed, as in the Statute is likewise mentioned, and recited in the above Indictment, and such Person or Persons who shall conceal such Goods or Stores, marked as aforesaid, being indicted and convicted of such Concealment, or of the having such Goods found in his Custody, Possession, or Keeping, shall forfeit such Goods and the Sum of two hundred Pounds,

together with the Costs of Prosecution; one Moiety to his Majesty, and the other Moiety to the Informer, to be recovered by Action of Debt, Bill,

Plaint, or Information in any of his Majesty's Courts of Records, at West-

minster, and shall also suffer Imprisonment, until Payment and Performance of the said Forfeiture, unless such Person shall, upon his Trial, produce a Certificate under the Hands of three or more of his Majesty's principal Officers or Commissioners of the Navy, Ordinance, or Victuallers, expressing the Numbers, Quantities, or Weight of such Goods as he or she shall be then indicted for, and the Occasion and Reason of such Goods coming to his or their Hands and Possession.

By the same Statute any Person or Persons, as shall make any Stores of War or naval

Stores whatever, with the Marks 9, 10 W. 3. c. 41. usually used to, and marked upon his

Majesty's said Warlike and Naval or Ordinance Stores, shall forfeit such Goods, and the Sum of two hundred Pounds, together with Costs of Suit, to be recovered as aforesaid.

By Stat. 9 Geo. 1. c. 8. §. 4. It shall be lawful for any Judge, Justice or Justices, before whom any Offender

By Stat. 9 Geo. 1. c. 8. §. 3 & 4. the Penalty of this Act may be mitigated.

364 Precedents of Indictments, &c.

sender or Offenders shall be convicted, to mitigate the Penalty for the same, as he or they shall see Cause, and to commit the Offenders so con-

The Penalty mentioned in the 9 and 10 W. 3. cap. 41. Sect. 2. mitigated.

viated to the common Gaol of the County, or Place where the Offence shall be committed, there to remain without Bail or Mainprize, until Payment be made of the Penalty and Forfeiture imposed by this or the said former Act, or mitigated as aforesaid, or to punish such Offenders corporally, by causing him, her, or them to be publicly whipped, or committed to some publick Work-house, there to be kept to hard Labour for the Space of six Months, or a less Time, as to such Judge, Justice, or Justices, in his or their Discretion shall seem meet.

N O T E S.

An Indictment for Felony, in stealing a Promissory Note.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That C. D. late of the Parish of St. Andrew, Holbourn, in the County of Middlesex, Yeoman, on the second Day of September, in the first Year of the Reign of our Sovereign Lord George the Third, now King of Great Britain, &c. at the Parish aforesaid, in the County aforesaid, feloniously did steal, take, and carry away, one promissory Note, signed under the Hand of G. C. bearing Date the sixteenth Day of November, in the Year of our Lord One thousand seven hundred and thirty-four, of the Value of sixty-five Pounds, by which said Note, the said G. C. did promise to pay W. C. or Order, sixty-five Pounds, three Months after Date (the said Note,
at

at the Time of committing the Felony aforesaid, being the Property of one *A. B.* and the said Sum of sixty-five Pounds, payable and secured by the same Promissory Note, being then due and unsatisfied to the said *A. B.* the Proprietor thereof) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 2 Geo. 2. c. 25. intituled, An Act for the more effectual preventing, and further Punishment of Forgery, Perjury, and Subornation of Perjury; and to make it Felony to steal Bonds, Notes, or other Securities for Payment of Money, it is enacted, That if any Person or Persons, after the twenty-ninth Day of June, shall steal, or take by Robbery, any Exchequer Orders or Tallies, or other Orders, intitling any other Person or Persons to an Annuity, or Share of any Parliamentary Fund, or any Exchequer Bills, Bank Notes, South-Sea Bonds, East-India Bonds, dividend Warrants of the Bank, South-Sea Company, Society, or Corporation, Bills of Exchange, Navy Bills, or Debentures, Goldsmiths Notes for Payment of Money, or other Bonds, or Warrants, Bills or Promissory Notes, for the Payment of any Money, being the Property of any other Person or Persons, or of any Corporation, notwithstanding any of the said Particulars, are termed in Law; a Chose in Action, it shall be deemed and construed*

* *Thing in Action* is, when a Man hath Cause, or may bring an Action for some Duty due to him; as an Action of Debt upon Obligation, Annuity, or Rent. Action of Covenant or Ward, Trespass of Goods taken away, beating, or such like; and because they are Things whereof a Man is not possessed, but for Recovery of them, is driven to his Action; they are called *Choses or Things in Action*; and those Things in Action which are certain, the King may grant. and the Grantee may have an Action for them in his one Name only: But a common Person cannot grant his *Thing in Action*, nor the King himself his *Thing*
in

366 *Precedents of Indictments, &c.*

construed to be Felony, of the same Nature, and in the same Degree, and with or without the Benefit of Clergy, in the same Manner as it would have been if the Offender had stolen, or taken by Robbery, any other Goods of like Value, with the Money due on such Orders, Tallies, Bills, Bonds, Warrants, Debentures, or Notes, or secured thereby, and remaining unsatisfied; and such Offender shall suffer such Punishment as he or she should or might have done, if he or she had stolen other Goods of the like Value, with the Monies due on such Orders, Tallies, Bonds, Bills, Warrants, Debentures, or Notes, respectively, or secured thereby, and remaining unsatisfied; any Law to the contrary thereof, in any wise used notwithstanding.

This Act extends not to Scotland, nor works Corruption of Blood, &c.

This Act was made perpetual by the Stat. 9 Geo. 2. c. 18.

N U I S A N C E.

Against a Butcher for using his Shop as a Slaughter-House in a publick Market.

London. **T**HE Jurors for our Lord the King upon their Oath present, That *H. H.* late of *London*, Butcher, on the twelfth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of Great Britain, &c. and divers other Days and Times then before, at *London*, to wit, in the Parish of ———, in the Ward of ———, in *London* afore-

in Action, which is as uncertain, as *Trespafs*, and such like: But of late Times it is used in *London*, that Merchants, and others there, who have Bills without Seals, for Payment of Money, assign them to others, who bring Actions in their own Names.

said,

faid, in a certain Shop of him the faid *H. H.* situate and being in a common Market, there called *Leadenball Market* (the faid Market being a common Passage for all the Subjects of our faid Lord the King with their Goods; Chattels, and Merchandizes to go, return, and pass at their Will) did unlawfully and injuriously kill and slay, and cause to be killed and slayed, ten Lambs, and the Excrements, Blood, Intrails, and other Filth coming from the faid Lambs, did then, and the faid other Days and Times, there cause and permit to lie and remain in the faid Shop for a long Time, whereby divers filthy and unwholesome Smells from the Excrements, Blood, Intrails, and other Filth coming from the Lambs as aforesaid, then and the faid other Days and Times there did arise, whereby the Air there was greatly corrupted and infected, to the great Damage and common Nuisance not only of all the Liege Subjects of our faid Lord the King near their inhabiting and dwelling, but also of all other Liege Subjects of our faid Lord the King, in, by, and through the faid common Market and Passage aforesaid going, returning, passing, and labouring, to the evil Example of all others in the like Case offending, and against the Peace of our faid Lord the King, his Crown and Dignity.

For keeping a Disorderly House.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, that *A. H.* late of the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, Labourer, on the tenth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain*, &c. and diverse others Days and Times between that and the Day of the taking this

4

Inqui-

368 **Precedents of Indictments, &c.**

Inquisition, with Force and Arms, at the Parish
aforesaid, in the County aforesaid, did keep and
maintain, and yet doth keep and maintain, a cer-
tain common, ill-governed, and disorderly House,
and in his said House, for his own Lucre and Gain,
certain evil and ill-disposed Persons, as well Men
as Women, of evil Name and Fame, and of dis-
honest Conversation, to frequent and come together,
then, and the said other Days and Times, there un-
lawfully and wilfully did cause and procure; and
the said Men and Women, in his said House, at
unlawful Times, as well in the Night as in the Day,
then and the said other Days and Times, there to be
and remain, drinking, tippling, whoring, and mis-
behaving themselves, unlawfully and wilfully did
permit, and yet doth permit, to the great Damage
and common Nuisance of all the Subjects of our
said Lord the King, and against the Peace of our
said Lord the King, his Crown and Dignity.

*The Offence of keeping a Bawdy-house (a) comes
under the Cognizance of the Temporal
Law as a common Nuisance, and a (b)
Feme Covert is punishable for his Of-
fence as much as if she were Sole.*

(a) 1 Hawk.
c. 74. Sect. 1.

(b) 1 Hawk.
c. 1. Sect. 1.

1 Hawk. c. 74.
Sect. 3:

1 Salk. 382.

*A Lodger who keeps only a single
Room for the Use of Bawdry, is in-
dictable for keeping a Bawdy-house,
but the bare Solicitation of Chastity is
not indictable.*

*That Offenders of this kind are punishable not only
with Fine and Imprisonment, but also
with such infamous Punishment as
to the Court in their Discretion shall
seem proper.*

1 Hawk. c. 74.
Sect. 4.

For

For digging a Hole in the King's Highway.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. F.* late of the Parish of *St. Ann*, within the Liberty of *Westminster*, in the County of *Middlesex*, Yeoman, on the fourth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in a certain Street, being the King's common Highway, there called *Tyburn-Road*, otherwise *Oxford-Street* (used for all the King's Subjects with their Horses, Coaches, Carts, and Carriages to go, return, ride, pass, and labour at their Will and Pleasure) unlawfully and injuriously did dig, and cause to be digged, a certain Pit, containing in Circumference fifteen Feet, and in Depth thirteen Feet, and the same Pit so as aforesaid digged and caused to be digged in the Street and Highway aforesaid, from the said fourth Day of *April*, in the Year aforesaid, until the ninth Day of the same Month, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did continue; by reason whereof the King's Subjects, during the Time aforesaid, could not go, return, pass, ride, and labour with their Horses, Coaches, Carts, and Carriages, in, by, and through the same Street and Highway, as they were wont and ought to do, without great Peril and Danger of their Lives, to the great Damage and common Nuisance of all the Liege Subjects of our said Lord the King, in, by, and through the same Street and Highway, going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

Against Night-Men for laying Soil in the Streets.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. H.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Labourer, and *H. A.* late of the same, Labourer, on the thirtieth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in the common Street and King's Highway, there called *Portland-Street*, unlawfully and injuriously did pour out, place, and leave, and caused to be poured out, placed, and left, a great Quantity of Dung, human Excrements, and other Filth, by which divers hurtful and unwholesome Smells, from the said Dung, Excrements, and other Filth, did then and there arise, and thereby the Air there became and was greatly corrupted and infected, to the great Damage and common Nuisance of all the Liege Subjects of our said Lord the King, in, by, and through the same Street and King's Highway, going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

For placing empty Drays in a common Street, whereby the Passage was obstructed for divers Hours in each Day.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *H. F.* late of the Parish of *St. Ann*, within the Liberty of *Westminster*, in the County of *Middlesex*,

sex, Labourer, on the eighth Day of *March*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. and divers other Days and Times between that Day the Day of the taking this Inquisition, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in the King's common Highway, there called *Lemon-Street*, unlawfully and injuriously did put and place three empty Drays, and did then, and the said other Days and Times, there unlawfully and injuriously permit and suffer the said empty Drays to be and remain in the King's common Highway aforesaid, by the Space of divers Hours in each Day, whereby the King's common Highway aforesaid then, and the said other Days and Times, by the Space of divers Hours in each Day, was obstructed and straitened, so that the Subjects of our said Lord the King could not then, and the said other Days and Times, go, return, pass, ride, and work with their Horses, Coaches, Carts, and Carriages, in, by, and through the King's common Highway aforesaid, as they ought and were wont, to the great Damage and common Nuisance of all his Majesty's Liege Subjects, going, returning, passing, riding, and working, in, by, and through the King's common Highway aforesaid, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For digging a Horse-pond, and erecting a Cistern in a common Passage.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *W. C.* late of the Parish of *St. Mary Matfellow*, otherwise *Whitechappel*, in the County of *Middlesex*, Yeoman,

372 *Precedents of Indictments, &c.*

man, on the twenty-second Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in a certain Passage and common Foot-way, there called *Boar's-head Yard*, unlawfully and injuriously did dig, and cause to be digged, a certain Horse-pond, containing in Length twelve Feet, and in Breadth three Feet, and that the said *W. C.* on the said twenty-second Day of *November*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in the same Passage and common Foot-way, unlawfully and injuriously did erect, put, and place, and cause to be erected, put, and placed, a certain wooden Cistern, containing in Length five Feet, and in Breadth twenty Inches, and that the said *W. C.* the said Horse-pond, so as aforesaid, dug, and also the said wooden Cistern, so as aforesaid, erected, put, and placed, from the said twenty-second Day of *November*, in the Year aforesaid, until the Day of the taking this Inquisition, with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did continue, and yet doth continue, by which the same Passage and common Foot-way, by the whole Time aforesaid, was so obstructed, and was, and yet is so dangerous, that the Liege Subjects of our said Lord the King, through the same Passage and common Foot-way, could not, nor yet can go, return and pass, so freely and safe as they ought and were wont, to the great Damage and common Nuisance of all the Liege Subjects of our said Lord the King, through the same Passage and common Foot way, going, returning, and passing, and against the Peace of our said Lord the King, his Crown and Dignity.

Against

Against a Sabbath-Breaker and Prophaner of the Lord's Day, in keeping open Shop.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *L. H.* late of the Parish of *St. Clement Danes*, in the County of *Middlesex*, Butcher, on the sixteenth Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. and continually afterward, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, was, and yet is a common Sabbath-Breaker and Prophaner of the Lord's Day, commonly called *Sunday*, and that the said *L. H.* on the said sixteenth Day of *January*, in the Year aforesaid, being the Lord's Day, and on divers other Days and Times, being the Lord's Days, during the Time aforesaid, at the Parish aforesaid, in the County aforesaid, in a certain Place there called *Clare-Market*, did keep a common, publick, and open Shop, and in the same Shop did then and on the said other Days and Times, there, openly and publickly sell and expose to Sale, Flesh-meat, to divers Persons, to the Jurors aforesaid as yet unknown, to the evil Example of all others in the like Case offending, to the common Nuisance of all the Liege Subjects our said Lord the King, and against the Peace of our said Lord the King, his Crown and Dignity.

Butchers, &c. using their Trade on the Lord's Day, are to be proceeded against in a Summary Way, before a Justice of Peace, and upon Conviction, are fineable six Shillings and Eight-pence: But this Punishment not being severe enough to deter the Offenders, the Method of indicting them for Nuisances, in keeping open Shop on the Lord's Day, is constantly made use

374 *Precedents of Indictments, &c.*

of at Sessions; for the first Offence they are generally fined thirteen Shillings and Four-pence, and so often as they offend afterwards, their respective Fines are doubled.

For putting and placing two Carts for the selling Pease in a publick Street.

Middlesex. **T**HE Jurors for our Lord the King, upon their Oath present, That K. L. late of the Parish of St. Mary Matfellow, otherwise *Whitechappel*, in the County of *Middlesex*, Labourer, on the twelfth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, to wit, in the common and publick Street there, called *Carnaby street* (the same Street being the common King's Highway, from the Time whereof the Memory of Man is not to the contrary, used by all the Subjects of our said Lord the King, and his Predecessors, with their Horses, Coaches, Carts, and Carriages, to go, return, pass, and ride at their Will and Pleasure) unlawfully and injuriously did put and place, and cause and procure to be put and placed, two Carts, for the felling and exposing to Sale, Pease in the Shells, and the said Carts in the same Street and common Highway, on the Day and Year aforesaid, for the Space of three Hours, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did cause to be and remain, whereby the said Street and common Highway, during the Time aforesaid, was very much obstructed and straitened, so that the Liege Subjects of our said Lord the King, could not through the same Street and common Highway, during the Time aforesaid,

go

go, return, pass, ride, and labour with their Horses, Coaches, Carts, and Carriages, as they ought, and were wont to do, to the great Damage, and common Nuisance of all the Liege Subjects of our said Lord the King, in, by, and through the same Street and common Highway, going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

For putting and placing two Cart-Loads of Dirt and other Filth in a common Foot-way.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J.* late of the Parish of *Stebunheath*, otherwise *Stepney*, in the County of *Middlesex*, Labourer, on the eleventh Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, in a certain common Foot-way there, leading from that Part of *Mile-end-green* which is in the Parish aforesaid, in the County aforesaid, towards and unto the parochial Church of the same Parish, in the said County, did unlawfully and injuriously put, place, and lay, and cause to be put, placed, and laid, two Carts Load of Dirt and other Filth, and the said Dirt and Filth, in the said Foot-way, from the said eleventh Day of *April*, in the Year aforesaid, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did permit and suffer to be and remain, by Reason whereof, the Foot-way aforesaid, during the Time aforesaid, was, and yet is greatly obstructed and straitened, so that the Subjects of our

376 *Precedents of Indictments, &c.*

saïd Lord the King, through the same Foot-way, could not, during the Time aforesaid, nor yet can go, return, pass, and labour as they ought or were wont to do, to the great Damage and common Nuisance of all the Subjects of our saïd Lord the King, through the same Foot-way going, returning, passing, and labouring, and against the Peace of our saïd Lord the King, his Crown and Dignity.

For keeping Hogs near a publick Street.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That T. T. late of the Parish of St. Sepulchre, in the County of *Middlesex*, Labourer, on the fourth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* and divers other Days and Times between that Day and the Day of the taking of this Inquisition, with Force and Arms, at the Parish aforesaid, in the County aforesaid, near the Dwelling-houses of divers liege Subjects of our saïd Lord the King, and also near divers publick Streets and common Highways, there did, and yet doth keep ten Hogs, and the saïd Hogs, then and there, on the saïd fourth Day of *May*, in the Year aforesaid, and the saïd other Days and Times, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously did, and yet doth feed with Offals and Entrails of Beasts, and other Filth, by Reason whereof divers noisome and unwholesome Smells, during the Time aforesaid, did there arise, and the Air there was, and yet is thereby greatly corrupted and infected, to the great Damage and common Nuisance, not only of all the Subjects of our saïd Lord the King there resident and dwelling, but also of all the Subjects of our saïd Lord the King,
passing

passing and repassing in, by, and through the said Streets and common Highways there, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For erecting a Furnace, with a Boiler, to be used for the boiling of Tripe and the Offal of Beasts.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That J. C. late of the Parish of St. George, Hanover-square, in the County of *Middlesex*, Labourer, on the twenty-ninth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, near the Dwelling-houses of divers liege Subjects of our said Lord the King there, and also near divers Streets and common Highways there, did unlawfully and injuriously erect and set up, and cause to be erected and set up, a certain Furnace, with a Boiler, to be used for boiling of Tripes, and other Entrails and Offal of Beasts: And that the said J. C. on the said twenty-ninth Day of *October*, in the Year aforesaid, and divers other Days and Times, between that Day and the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, divers great Quantities of Tripes, and other Entrails and Offal of Beasts, in the said Boiler, unlawfully and injuriously did boil, and yet doth boil, whereby divers noisome and unwholsome Smoaks and Smells did then, and on the said other Days and Times, there arise, so that the Air there was greatly corrupted and infected, to the great Damage and common Nuisance of all the

378 *Precedents of Indictments, &c.*

the Subjects of our said Lord the King, not only near the same Place inhabiting and residing, but also in and through the said common Streets and Highways, going, returning, and passing, and against the Peace of our said Lord the King, his Crown and Dignity.

For Boiling Bullocks Blood for making Colours.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. B.* late of Parish of *St. Ann*, within the Liberty of *Westminster*, in the County of *Middlesex*, Colour-man, on the first Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* and on divers other Days and Times, between that Day and the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, in a certain Building belonging to the Dwelling-house of the said *J. B.* there situate and being, and also near the Dwelling-houses of divers Subjects of our said Lord the King, and near divers publick Streets and common Highways there, did unlawfully boil, and cause to be boiled, a great Quantity of Bullocks Blood, and other Filth, for the making and mixing of Colours, whereby divers noisome and unwholsome Smells, on the Day and Year aforesaid, and the said other Days and Times, during the Time aforesaid, at the Parish aforesaid, in the County aforesaid, did from thence arise, so that the Air there was thereby greatly corrupted and infected, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, not only there inhabiting and residing, but also going, returning, and passing through the said Streets and Highways, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For stopping up an ancient Water-course, whereby the Water overflowed into the Highway, and damaged the same.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. C.* late of the Parish of *Edmonton*, in the County of *Middlesex*, Yeoman, on the twenty-sixth Day of *April*, in the first Year of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, a certain ancient Water-course, adjoining to the King's common Highway, within the same Parish, leading from the Town of *Enfield*, in the County aforesaid, towards, and unto the City of *London*, with Gravel and other Materials, unlawfully, and injuriously did obstruct and stop up; and the said Water-course, so as aforesaid obstructed and stopped up, from the said twenty-sixth Day of *April*, in the Year aforesaid, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, unlawfully and injuriously hath continued, and still doth continue, by Reason whereof the Rain and Waters that were wont, and ought to flow and pass through the said Water-course, on the same Day and Year, and divers other Days and Times afterwards, between that Day and the Day of the taking of this Inquisition, did overflow and remain in the King's common Highway aforesaid, and thereby the same Way was, and yet is greatly hurt and spoiled, so that the liege Subjects of our said Lord the King, through the same Way, with their Horses, Coaches, Carts, and Carriages, then, and on the said other Days and Times, could not, nor yet can go, return, pass, ride, and labour as they ought and were wont

to

380 *Precedents of Indictments, &c.*

o do, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Highway going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity.

Against Scavengers for not cleansing the Streets.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. George the Martyr*, in the County of *Surry*, Broker, and *C. D.* late of the same, Silversmith, on the first Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* then and long before being Scavengers within the said Parish, in the County aforesaid, duly elected by the Inhabitants of the said Parish diligently to supervise (amongst other Things belonging to their Office) that all the Ways, Streets, and Lanes, in the said Parish, in the said County, should be cleansed of Dirt and Filth: Nevertheless, the said *A. B.* and *C. D.* the Duty of their Office in this Part neglecting, on the said first Day of *January*, in the Year aforesaid, and at divers other Days and Times, as well before as afterwards, at the Parish aforesaid, in the County aforesaid, the common Highways, Streets, and Lanes within the Parish aforesaid did not cleanse, and cause to be cleansed of the Dirt and Filth aforesaid, but then, and the said divers other Days and Times aforesaid did permit, and still doth permit the said Dirt and Filth to be, lie, and remain in the said common Highways, Streets, and Lanes within the Parish aforesaid, in the County aforesaid, to the great Damage and common Nuisance, as well of all the
liege

liege Subjects of our said Lord the King there inhabiting and residing, as of all other liege Subjects of our said Lord the King, there going, passing, and labouring, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against Rakers for neglecting to cleanse the Streets.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *T. L.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Labourer, on the fifth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* and long before, was, and yet is, one of the Rakers for the Liberty of *Saffron-Hill, Hatton-Garden*, and *Ely-Rents*, within the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex* aforesaid, and during the whole Time aforesaid, did take upon himself to execute the Office of Raker within the same Liberty, and that the said *T. L.* on the said fifth Day of *April*, in the Year aforesaid, until the second Day of *May*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did unlawfully and contemptuously neglect and refuse to carry, and cause to be carried away the Dust, Dirt, Ashes, Filth, and other Soil from and out of the Streets, Lanes, Alleys, and Passages within the said Liberty, to the great Damage and common Nuisance, as well of all the liege Subjects of our said Lord the King there inhabiting and residing, as of all other liege Subjects of our said Lord the King there going, passing, and labouring, against the Form of the Statute

382 **Precedents of Indictments, &c.**

Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

It is enacted by the Stat. 2 *W.* and *M.* Stat. 2. c. 8. *That the Rakers, Scavengers, or other Officers thereunto appointed, every Day in the Week, except Sundays and other Holidays, shall bring, or cause to be brought, Carts, Dung-pots, and other fitting Carriages, into all their respective Parishes, Limits, Precincts, Streets, Charges, and Divisions, where such Carts and Carriages can pass; and at, or before their Approach, by a Bell, Horn, or Clapper, or otherwise, shall make a distinct and loud Noise, and give Notice to the Inhabitants thereof of their coming, and make the like Noise, and give the like Notice in every Court, Alley, or Place, into which the said Carts cannot pass, and abide and stay there a convenient Time, in such Sort, that all Persons concerned may bring forth their respective Dust, Dirt, Ashes, Filth, and Soil to the respective Carts and Carriages, so staying as aforesaid; all which the said Rakers, Scavengers, or other Officers aforesaid, shall daily carry, or cause to be carried away, upon Pain to forfeit forty Shillings for every such Offence or neglect respectively.*

Against the Inhabitants of a Parish for not repairing an ancient Horse and Foot-way, commonly called a Pack and Prime-way.

Shropshire. **T**HE Jurors for our Lord the King upon their Oath present, That from the Time of which the Memory of Man is not to the contrary, there was, and yet is, a certain common and ancient *Pack and Prime-way*, leading from the Village of *Long-Stanton*, in the County of *Salop*, to the Village of *Ditton-Priors*, in the same County,

County, for all the liege Subjects of our now Lord the King, and his Ancestors, on Horseback and on Foot, to go, return, pass, ride, labour and drive their Cattle at their Will, and that a certain Part of the same common *Pack* and *Prime-way*, situate, lying and being within the Parish of *Long-Stanton*, in the County aforesaid, containing in Length, three hundred Yards, and in Breadth, five Yards, on the first Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. and continually afterwards, until the Day of the taking of this Inquisition, at the Parish of *Long-Stanton* aforesaid, in the County aforesaid, was, and yet is very ruinous, miry, deep, broken, and in such Decay, for want of due Reparation and Amendment of the same, that the liege Subjects of our said Lord the King, by the same Way, with their Horses and Cattle, could not, during the Time aforesaid, nor yet can go, return, pass, ride, and labour, as they ought and were wont to do, without great Danger of their Lives, and the Loss of their Goods, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity. And that the Inhabitants of the said Parish of *Long-Stanton*, in the County aforesaid, the same common *Pack* and *Prime-way*, so as aforesaid being in Decay, ought to repair and amend, when, and so often as it shall be necessary.

For

For continuing a Hedge, formerly erected by a Person unknown, a-cross a Pack and Prime-way, whereby the same was totally obstructed.

Shropshire. **T**HE Jurors for our Lord the King, upon their Oath present, That from the Time of which the Memory of Man is not to the contrary, there was, and yet is a certain common and ancient Pack and Prime-way, leading from the Village of *Long-Stanton*, in the County of *Salop*, to the Village of *Ditton-Priors*, in the same County, for all the liege Subjects of our now Lord the King, and his Ancestors, on Horseback and on Foot, to go, return, pass, ride, labour, and drive their Cattle at their Will, and that on the first Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at *Ashfield*, in the Parish of *Ditton-Priors* aforesaid, in the County aforesaid, a certain Hedge had then before been erected and fixed a-cross the same Pack and Prime-way there, leading through a certain Land, called and known by the Name of the *Barn-Yard*, by a certain Person (to the Jurors aforesaid yet unknown) whereby the same Pack and Prime-way was totally obstructed and stopped up, so that the liege Subjects of our said Lord the King, by the same Way, with their Horses and Cattle, could not then go, return, pass, ride, and labour, as they had been used and accustomed to do Time immemorial, and that *G. M.* of *Ashfield*, in the said Parish of *Ditton-Priors*, in the said County of *Salop*, Yeoman, the said Hedge, so as aforesaid, erected and fixed a-cross the same Pack and Prime-way, from the said first Day of *July*, in the Year aforesaid, until the Day of the taking of this Inquisition, to wit, the sixteenth Day of
of

of *August*, in the Year aforesaid, with Force and Arms, at *Ashfield*, in the Parish of *Ditton-Priors* aforesaid, in the County aforesaid, voluntarily and obstinately did uphold, maintain, and continue, whereby the same Pack and Prime-way, during the Time aforesaid, was, and yet is obstructed and stopped up, so that the liege Subjects of our said Lord the King are still hindered in passing and repassing through the same Pack and Prime-way as aforesaid, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding, and labouring, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Against the Inhabitants of a Parish for not repairing the King's common Highway.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That from the Time whereof the Memory of Man is not to the contrary, there was, and yet is a certain common and ancient King's Highway, leading from the Town of *Hatfield*, in the County of *Hertford*, towards, and unto the City of *London*, used for all the liege Subjects of our said Lord the King, and his Predecessors, with their Horses, Coaches, Carts, and Carriages, to go, return, pass, ride, and labour at their Will and Pleasure, and that a certain Part of the same King's common Highway, called ——— *Lane*, situate, lying, and being in the Parish of *Fryan Barnet*, in the County of *Middlesex*, containing in Length forty Yards, and in Breadth eight Yards, on the first Day of *November*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of Great Britain,

Britain, &c. and continually afterwards, until the Day of the taking of this Inquisition, at the said Parish of *Fryan Barnet*, in the said County of *Middlesex*, was, and yet is very ruinous, miry, deep, broken, and in such Decay, for Want of due Reparation and Amendment of the same, so that the liege Subjects of our said Lord the King, through the same Way, with their Horses, Coaches, Carts, and Carriages, could not, during the Time aforesaid, nor yet can go, return, pass, ride, and labour, without great Danger of their Lives, and the Loss of their Goods, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity; and that the Inhabitants of the said Parish of *Fryan Barnet*, in the said County of *Middlesex*, the common Highway aforesaid (so as aforesaid being in Decay) ought to repair and amend, when, and so often as it shall be necessary.

A Presentment on the View of a Justice for not repairing a Highway.

Middlesex. **J.** L. Esq; one of the Justices of our Lord the King, assigned to keep the Peace in the County of *Middlesex*, and also to hear and determine divers Felonies, Trespasses, and other Misdeeds committed in the same County, by Virtue of the Statute in such Case made and provided, upon his own proper Knowledge presents, That from the Time whereof the Memory of Man is not to the contrary, there was, and yet is a certain common and ancient King's Highway, leading from the Town of *Edgware*, in the County of *Middlesex*, towards and unto the City of *London*,
used

used for all the liege Subjects of our said Lord the King, and his Predecessors, with their Horses, Coaches, Carts, and Carriages, to go, return, pass, ride, and labour at their Will, and that a certain Part of the same King's common Highway, commonly called the *Pissing-place*, situate, lying, and being in the Parish of *Hampstead*, in the same County, and on the East Side of the same Highway, containing in Length one hundred and twenty Yards, and in Breadth fifteen Feet, on the first Day of *July*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. and continually afterward, until the thirteenth Day of *October*, in the Year aforesaid, at the said Parish of *Hampstead*, in the County aforesaid, was, and yet is very ruinous, miry, deep, broken, and in such Decay for Want of due Reparation and Amendment of the same, so that the liege Subjects of our said Lord the King, through the same Way, with their Horses, Coaches, Carts, and Carriages, could not, during the Time aforesaid, nor yet can go, return, pass, ride, and labour, without great Danger of their Lives and Loss of their Goods, to the great Damage and common Nuisance of all the liege Subjects of our said Lord the King, through the same Way going, returning, passing, riding, and labouring, and against the Peace of our said Lord the King, his Crown and Dignity; and that the Inhabitants of the Parish of *Hampstead* aforesaid, in the County aforesaid, the common Highway aforesaid (so as aforesaid being in Decay) ought to repair and amend, when, and so often as it shall be necessary; in Testimony whereof, the said *J. L.* to these Presents hath set his Hand and Seal, this thirtieth Day of *October*, in the Year aforesaid.

388 Precedents of Indictments, &c.

A Common Nuisance may be defined to be an Offence against the Publick, either by doing a Thing which tends to the Annoyance of all the King's Subjects, or by neglecting to do a Thing, which the common Good requires.

But Annoyances to the Interests of particular Persons are not punishable by a publick Prosecution as common Nuisances, but are left to be redressed by the private Actions of the Parties aggrieved by them.

No Indictment for a Nuisance can be good, which lays it to the Damage of private Persons only.

The erecting a Gate in a Highway is a Nuisance, because it interrupts the People in that free and open Passage which they before enjoyed, and were lawfully intitled to; but where such a Gate hath continued Time out of Mind, it shall be intended, that it was set up at first by Consent, on a Composition with the Owner of the Land on the laying out the Road, in which Case, the People had never any Right to a freer Passage than what they still enjoy.

It hath been holden, that it is no common Nuisance to make Candles in a Town, because the Needfulness of them shall dispense with the Noysomness of the Smell: But the Reasonableness of this Opinion seems justly to be questionable, because whatever Necessity there may be that Candles be made, it cannot be pretended to be necessary to make them in a Town; and surely the Trade of a Brewer is as necessary as that of a Chandler, and yet it seems to be agreed, that a Brew-house, erected in such an inconvenient Place, wherein the Business cannot be carried on without greatly incommoding the Neighbourhood, may be indicted as a common

2 Rol. Ab. 83.

2 Rol. Ab. 83.

1 Sid. 209.

1 Hawk. P. C.
c. 75. Sect. 9.

2 Rol. Ab. 139.

Pl. 2. Cont.

3 Mod. 138.

1 Hawk. P. C.
cap. 75. Sect. 9.

2 Keb. 500. *Fid.*

1 Dan. Ab. 173,
174.

mon

mon Nuisance : And so in the like Case
may a Glass-house or a Swine-yard. Salk. 458, 460.

It is a common Nuisance to divert Part of a publick
navigable River, whereby the Cur-
rent of it is weakened, and made un-
able to carry Vessels of the same Bur-
then as it could before. Also it hath been holden to be
a common Nuisance to divide a House in a Town, for
poor People to inhabit in, by Reason
whereof it will be more dangerous in
the Time of Infection of the Plague. Noy 103.
2 Rol. Ab. 139.
pl. 3.

Any one may pull down or other-
wise destroy a common Nuisance, as a
new Gate, or even a new House erected
in a Highway. 2 Rol. Ab. 137.
Cro. Ca. 184.

It hath been adjudged, that if a River be stopped,
to the Nuisance of the Country, and
none appear bound by Prescription to
clear it, those who have the Piscary,
and the neighbouring Towns, who have a common
Passage and Easement therein, may be compelled to
do it. 37 Aff. 10.
2 Rol. Ab. 137.

There must be an Indictment at the Suit of the
King, for all common and publick Nui-
sances, Incroachments, Purprestures,
and all Annoyances upon Highways,
though it is but a common Footway;
and the Party may be fined and impri-
soned, for here no one shall have an Action on the
Case; for the Law avoideth Multiplicity of Suit,
because if one might have an Action, all Men might
have the like; therefore the Indictment must be, to the
common Nuisance of all the liege Subjects of our Lord
the King. 5 Rep. 73.
1 Inst. 56.
1 Rol. Ab. 391.
1 Vent. 208.

Of Nuisances relating to Highways.

There are three Kinds of Ways; first, a Foot way, which is called in Latin, Iter; second, a Pack and Prime-Way, which is both Horse and Foot-way, and called in Latin, Actus; third, a Cart-way, which contains the other two, and is called in Latin, Via, or Aditus, and this is either common to all Men, and then it is called Via Regia, or belongs to some City or Town, or private Person, and then it is called Communis Strata.

Any one of the said Ways, which is common to all the King's People, whether it leads directly to a Market Town, or only from Town to Town, may be properly called a Highway, and that any such Cart-way may be called the King's Highway, and that a Nuisance in any of the said Ways may be punished by Indictment.

The general Charge of repairing all Highways, lies on the Occupiers of the Lands, in the Parish wherein they are; but it is said that the Tenants of the Lands adjoining, are bound to scour their Ditches, and there is no Doubt but particular Persons may be burthened with the particular Charge of repairing a Highway, in two Cases; first, in respect of an Inclosure of the Land wherein it lies; and secondly, in respect of a Prescription: But no such Person can be charged with such a Duty by a general Prescription from what his Ancestors have done, because no one is bound to do what his Ancestors have done, unless it be for some special Reason, as the having Land descended from such Ancestors, which are holden by such like Service,

1 Rol. Ab. 890.

March. 26.

1 Vent. 90,

183, 189.

H. P. C 144.

8 H. 7. 5.

21 Ed. 4. 38.

Service, &c. Yet it seems that an Indictment charging a Tenant in Fee-simple, with having used of Right to repair such a Way, by Reason of the Tenure of his Lands, is certain enough, without adding, that his Ancestors, or those whose Estate he hath, have always so done, for that it is implied by saying, that he has always used to do it, by Reason of his Tenure. Also an Occupier, as such, though at Will only, is indictable for suffering a House standing upon the Highway to be ruinous, &c. and the Words, by Reason of his Tenure, &c. if added, are Surplus.

Keilw. 52.
Latch. 206.

Salk. 357.

However, it seemeth certain, That whether a particular Person is bound to repair a Highway by Inclosure or Prescription, &c. yet the Parish cannot take Advantage of it upon the Plea of Not Guilty, to an Indictment against them for not repairing it, but ought to set forth that Discharge in a special Plea.

Mod. 112.
3 Keb. 301.
Vent. 256.

There is no Doubt but that all Injuries whatsoever to any Highway, as by digging a Ditch or making a Hedge overthwart it, or laying Logs of Timber in it, or by doing any other Act which shall render it less commodious to the King's People, are publick Nuisances at Common Law; and it is no Excuse for one who layeth such Logs in the Highway, that he laid them only here and there, so that the People might have a Passage by Windings and Turnings through the Logs: Yet it is said to be no Nuisance for the Inhabitants of a Town to unlade Bilets, &c. in the Street before their Houses, by Reason of the Necessity of the Case, unless they suffer them to continue there an unreasonable Time after they are unloaded.

Kitch. 34, 35.

2 Rol Ab. 137.
B. 265. C. 2.

2 Rol. Ab. 137.
B. 2, 3.

392 Precedents of Indictments, &c.

*It is a Nuisance to suffer the Ditches adjoining to a Highway to be foul, by Reason where-
Kitch. 34. 35. of the Highway is impaired; or to
7 Geo. 2. c. 9. suffer the Boughs of Trees growing near the High-
way to hang over the Road in such a Manner, as
thereby to incommode the Passage: and any Person
may justify the Lopping such Trees, so far as to avoid
the Nuisance.*

*By the Common Law, any one may abate a Nui-
sance to a Highway; and remove the
1 Jon. 222. Materials, but not convert them to*

*his own Use: And an Heir at Law may be indicted
for continuing an Incroachment, or
See 4. Aff. 3. other Nuisance to a Highway, begun
2 Rol. Ab. B. 4. by his Ancestor; because such a Con-
142. tinuance amounts to a new Nuisance.*

*Every such Indictment should ex-
2 Rol. Ab. 81. pressly shew, both the Place from which
pl 18. and also the Place to which the Way,
Palm. 420. supposed to be out of Repair, doth lead; yet Excep-
tions, for Want of such Certainty, have*

*sometimes been (b) disallowed: How-
(b) 2 Keb. 715, ever, there is no Necessity to (c) shew,
718. that a Highway leads to a Market-
5 Keb. 89, 644. town, because every Highway leads
Brownl. 6. from Town to Town. And it is neces-
sary, in every such (d) Indictment,*

*expressly to shew, in what Place the
(c) Palm. 389. Nuisance complained of was done, for
2 Ro. Rep. 412. which Cause (e) an Indictment for stop-
(d) 3 Keb. 644. ping a Way at D, leading from D to
(e) 2 Rol. Ab. 81. C, is not good, for it is impossible that
pl. 18. a Way leading from D should be in D, and no other
Place is alledged. Every such Indictment ought also*

*certainly to shew, to what Part of
Cro. Ja. 324. the Highway the Nuisance d'd ex-
tend, as by shewing how many Feet in Length, and
how many Feet in Breadth it contained; or otherwise,
the*

the Defendant will neither know of the Certainty of the Charge against him, neither will the Court be able to judge of the Greatness of the Offence, in order to assess a Fine answerable thereto; and upon this Ground it hath been adjudged,

2 Rol. Ab. 89.
pl. 14, 16, 18.

that an Indictment for stopping a certain Part of the King's Way at K is naught, for the Uncertainty thereof. Also it hath been resolved, that the Place wherein

2 Rol. Ab. 81.
pl. 17.

such a Nuisance is alledged, is not sufficiently ascertained in such an Indictment, by shewing that it contained so many Feet in Length, and so many Feet in Breadth by Estimation: And every such Indictment must shew, that the Way, wherein a Nuisance is alledged, is a Way common to all the King's People.

Salk. 359.
6 Mod. 255,
256.

That an Indictment against a Man for stopping a Highway in his own Land is good, without laying the Offence done Vi & Armis. Also, That a Presentment

Poph. 206.

that a Highway in such a Place is decayed by the Default of the Inhabitants of such a Town is good, without naming any Person in Certainty: But it hath been adjudged, that an Indictment against particular Persons, must especially charge them every one; for which Cause it hath been resolved, That an Indictment against several for not repairing their Streets, and that they and each of them did not repair them, is not good.

2 Rol. Ab. 79.

2 Rol. Ab. 81.
pl. 6, 7.

That the Defendants ought not to plead, That they ought not to repair, without shewing who ought.

1 Sid. 140.

That the Defendants shall not be discharged, by submitting to a Fine, but a Distringas shall go ad Infinitum, till they repair.

Salk. 358.
6 Mod. 163.

394 Precedents of Indictments, &c.

Statutes relating to Highways, &c. are the Statute of Winchester, 13 Ed. 1. c. 5. 2 & 3 Ph. & Mar. c. 8. 5 Eliz. c. 13. 18 Eliz. c. 10. 22 Car. 2. c. 12. 3 & 4 W. & Mar. c. 12. 7 & 8 W. 3. c. 29. 8 & 9 W. 3. c. 15. 6 Annæ, c. 29. 9 Annæ, c. 18. 1 Geo. 1. c. 11. 7 Geo. 2. c. 9. 14 Geo. 2. c. 42. 15 Geo. 2. c. 2. 16 Geo. 2. c. 29. 18 Geo. 2. c. 33. 21 Geo. 2. c. 28. 24 Geo. 2. c. 43. 26 Geo. 2. c. 30. 27 Geo. 2. c. 16. 28 Geo. c. 17. 30 Geo. 2. c. 28.

P E R J U R Y.

Indictment for Perjury by a Debtor swearing himself a Fugitive.

London } **T**HE Jurors, &c. present, That on to wit. } *Monday the fifth Day of September,* which was in the first Year of the Reign of our Sovereign Lord *George the Third,* now King of *Great Britain, &c.* the General Session of the Peace of our said Lord the King, was held for the City of *London* at the *Guildball*, within the said City, before Sir *R. L. Knt.* then Mayor of the City of *London,* *J. S. Esq;* then Recorder of the said City, Sir *S. P. Knt. R. A. Esq;* then Aldermen of the said City, and others their Fellows, Justices of our said Lord the King, assigned to keep the Peace of our said Lord the King within the said City, and also to hear and determine divers Felonies, Trespasses, and other Misdeeds committed within the said City; and the same Session of the Peace was then and there adjourned by the aforesaid Justices above named, and others their Fellows aforesaid, there, until ——— And the same Session, by divers further Adjournments, was duly continued and adjourned, and was held for the said City of *London,* at the *Guildball* aforesaid, by Adjournment, on *Tuesday* the twenty-seventh Day of *September,* in

in the Year aforesaid, before, &c. And the Jurors aforesaid, upon their said Oath, further present, That on the same *Tuesday*, the same twenty-seventh Day of *September*, in the Year aforesaid, at the Parish of Saint *Michael Bassishaw*, in the Ward of *Bassishaw*, in *London* aforesaid, at the said General Session of the Peace, so holden by Adjournment as aforesaid, at the *Guildhall* aforesaid, before the said Justices of our said Lord the King last above named, and others their Fellows aforesaid, came in his proper Person as a Debtor actually beyond the Seas in foreign Parts, on the first Day of *January*, in the Year of our Lord One thousand seven hundred and sixty-one, and as one who had since returned and surrendered himself unto the Gaoler or Keeper of the Prison of the *Fleet*, and according to the Form of the Statute made in the first Year of the Reign of our Sovereign Lord King *George* the Third, intituled, An Act for Relief of insolvent Debtors, *W. M.* late of the Parish of *St. Paul, Shadwell*, in the County of *Middlesex*, Victualler and Mariner, being brought by the Warden of the said Prison of the *Fleet* (then being Gaoler or Keeper of the same Prison) by Virtue of a Warrant under the Hand and Seal of Sir *R. L.* Knt. then and still being one of the Aldermen of the said City, and then and still also being one of the Justices of our said Lord the King assigned to keep the Peace of our said Lord the King within the said City, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed within the said City; and the said *W. M.* so being brought, and coming before the Justices last aforesaid, at the said General Session of the Peace, so then and there holden by Adjournment as aforesaid, then and there in open Court did take his corporal Oath upon the holy Gospel of God (the said Justices and Court aforesaid having
a com-

396 **Precedents of Indictments, &c.**

^a competent Authority to administer an Oath to the said *W. M.* in that Behalf) and the said *W. M.* not having God before his Eyes, but being moved and seduced by the Instigation of the Devil, and no wise regarding the good Laws and Statutes of this Realm, nor fearing the Pains and Penalties therein contained, but wickedly intending, by Colour and Pretext of the said Act of Parliament, to deceive and defraud one *W. S.* then and long before, and still being a Creditor of the said *W. M.* and divers others the Creditors of the said *W. M.* (whose Names are as yet unknown to the said Jurors) of their just Debts growing due before the said first Day of *January* 1761, then and there, to wit, on the said 27th Day of *September*, in the first Year abovesaid, with Force and Arms, at the Parish and Ward abovesaid, in *London* abovesaid, that is to say, at the said General Session of the Peace, then and there holden by Adjournment as abovesaid, before the said Justices of our said Lord the King last above named, and others their Fellows abovesaid, upon his Oath abovesaid, falsely, maliciously, wilfully, corruptly, and feloniously did say, swear, protest, and declare (among other Things) that he the said *W. M.* was actually, on the first Day of *January* One thousand seven hundred and sixty-one, beyond the Seas in foreign Parts, that is to say, at *Rotterdam* (meaning *Rotterdam* in *Holland*) whereas, in Truth and in Fact, the said *W. M.* was not actually, on the first Day of *January* One thousand seven hundred and sixty-one, at *Rotterdam* in *Holland*; and whereas, in Truth and in Fact, the said *W. M.* was not actually, on the first Day of *January* One thousand seven hundred and sixty-one, at *Rotterdam* beyond the Seas in foreign Parts; and whereas, in Truth and in Fact, the said *W. M.* was not actually, on the first Day of *January* One thousand seven hundred and sixty-one, beyond the Seas in foreign Parts,

Parts, as, &c. And so the Jurors aforesaid, upon their Oath aforesaid, say, That the said *W. M.* then and there, to wit, on the twenty-seventh Day of *September*, in the first Year aforesaid, at *London* aforesaid, to wit, in the Parish and Ward aforesaid, in the said open Session, before the same Justices, did falsely, wickedly, corruptly, and feloniously commit wilful and corrupt Perjury in Manner and Form aforesaid, to the great Displeasure of Almighty God, in evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity, and also against the Form of the Statute in such Case lately made and provided.

For Perjury in an Oath made before a Justice of the Peace, in Relation to a Breach of the Peace.

Middlesex. **B**E it remembered, That at the Session of Oyer and Terminer of our Sovereign Lord the King, holden for the County of *Middlesex*, at *Hicks's Hall* in *St. John-Street*, in the said County, on *Tuesday* the nineteenth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. before *J. M. J. M. H. B. N. C.* Esqrs. and others their Fellows, Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under his Great Seal of *Great Britain*, to the same Justices above named, and others, and any four or more of them, directed to enquire more fully the Truth by the Oaths of good and lawful Men of the said County of *Middlesex*, and by other Ways, Means, and Methods by which they should, or might better know (as well within Liberties as without) by whom the
Truth

398 **Precedents of Indictments, &c.**

Truth of the Matter may be better known, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Chippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and other Kingdoms or Dominions whatsoever; and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings, Conventicles, unlawful uttering of Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenances, Oppression, Champarty, Deceits, and all other Evil-doings, Offences and Injuries whatsoever; and also of the Accessaries of them within the County aforesaid, as well within Liberties as without, by whomsoever, and in what Manner soever done, committed, or perpetrated, and by whom, or to whom, when, how, and after what Manner, and of all other Articles and Circumstances concerning the Premises, and every of them, or any of them, in any Manner whatsoever, and the said Treasons, and other the Premises, to hear and determine according to the Laws and Customs of *England*, by the Oaths of *P. B. Gent. J. B. J. H. T. C. D. R. R. M. W. B. R. S. J. S. W. P. W. S. T. F. H. N. J. M. R. B. T. P. J. C. T. K. T. C. D. H. J. W. T. B. and A. A.* good and lawful Men of the said County of *Middlesex*, then and there sworn, and charged to enquire for our said Lord the King, for the Body of the said County. It is presented in Manner and Form as followeth, that is to say, *Middlesex*. The Jurors for our Lord the King upon their Oaths present, That formerly, to wit, on the sixteenth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish of *St. James*, within the Liberty of *Westminster*,

Her, in the County of *Middlesex*, *R.* the Wife of *G. C.* came before *T. D.* Esq; then and yet one of the Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid; and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed in the same County, and then and there, upon her Oath, charged *J. G. de M.* and *F. M.* before the said *T. D.* the Justice aforesaid, with having assaulted, stricken, and bruised her the said *R.* and she the said *R.* then and there also deposed upon Oath before the said *T. D.* the Justice aforesaid, that she the said *R.* verily believed her Life was then in very great Danger: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That *C. S.* late of the Parish of *St. James* within the Liberty of *Westminster* aforesaid, in the County of *Middlesex* aforesaid, Widow, well knowing the Premises, and wickedly devising and intending unjustly to aggrieve the said *J. G. de M.* and *F. M.* and to procure them, without any just Cause, to be imprisoned, and kept in Prison for a long Space of Time, on the said sixteenth Day of *November*, in the Year aforesaid, at the Parish of *St. James*, within the Liberty of *Westminster* aforesaid, in the County aforesaid; the said *C. S.* then and there being present in her own proper Person, before the said *T. D.* then and there being one of the Justices of our said Lord the King, assigned to keep the Peace in the County aforesaid, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed in the same County, did then and there take her Corporal Oath, and was sworn upon the Holy Gospel of God, before the said *T. D.* he the said *T. D.* then and there having sufficient Power and Authority to administer the said Oath to the said *C. S.* in that Behalf; and the said *C. S.* not having God before her Eyes, but being moved and seduced by the In-

3

stigation

stigation of the Devil, then and there before the said *T. D.* upon her Oath aforesaid, falsely, maliciously, wilfully, and corruptly did say, depose, swear, and give, and make Information in Writing as followeth, that is to say, *Mrs. C. S.* Midwife (meaning herself the said *C. S.*) being upon Oath says, that she (meaning her the said *C.*) has attended *R. C.* (meaning *R. C.* above named) ever since *Sunday Night* last, and finds her (meaning the said *R.*) in a very dangerous Condition; and believes that the Child, or Children, she (meaning the said *R.*) is now pregnant of, is or are dead within her, (meaning the said *R.*) occasioned by the Violence she received. Whereas in Truth and in Fact, at the Time when the said *C. S.* so took her Oath aforesaid, in Form aforesaid, or at any other Time during the Time she is mentioned in the said Information, of her the said *C.* to have attended the said *R. C.* she the said *C.* did not find her the said *R.* in a very dangerous Condition, or in any dangerous Condition: And whereas in Truth and in Fact, she the said *R.* was not then or at any other Time during the Time aforesaid, in any dangerous Condition: And she the said *C.* at the Time she so took her Oath aforesaid, in Form aforesaid, then and there well knew that the said *R.* was not then in any dangerous Condition; and whereas in Truth and in Fact, at the said Time, when she the said *C.* so took her Oath aforesaid, in Form aforesaid, or at any other Time during the Time she is mentioned to have attended the said *R. C.*, as aforesaid, she the said *R.* was not pregnant of, or with any Child or Children, nor was or were any Child or Children then or during the Time aforesaid, dead within her the said *R.* And whereas in Truth and in Fact, at the same Time when she the said *C. S.* so took her Oath aforesaid, in Form aforesaid, she the said *C.* well knew that the said

R. C.

R. C. was not then or at any other Time during the said Time she is mentioned to have attended the said R. C. as aforesaid, pregnant of, or with any Child or Children, and that then or at any Time during the Time aforesaid, there was not nor were any Child or Children dead within her the said R. And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said C. S. on the said sixteenth Day of *November*, in the Year aforesaid, at the Parish of *St. James*, within the Liberty of *Westminster* aforesaid, in the County aforesaid, before the said T. D. so as aforesaid, having sufficient Power and Authority to administer the said Oath to the said C. S. falsely, maliciously, wickedly, and corruptly, in Manner and Form aforesaid, did commit willful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Perjury upon bearing of an Appeal at the Quarter-Sessions against an Order of Adjudication of Bastardy, made by two Justices of the Peace.

Herefordshire. **T**HE Jurors for our Lord the King, upon their Oath present, That M. C. late of the Parish of *Orleton*, in the County of *Hereford*, single Woman, on the sixteenth Day of *March*, in the Year of our Lord One thousand seven hundred and sixty-one, and in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, in her proper Person, came before J. C. and R. S. Esqrs. then being two of the Justices of our Sovereign
D d reign

reign Lord the King, assigned to keep the Peace of our said Lord the King, in and for the said County of *Hereford*, and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the said County; and then and there having sufficient Power and Authority to administer an Oath, and take her Examination herein after mentioned, (one of whom, to wit, the said *R. S.* then was of the *Quorum*;) and then and there the said *M. C.* was sworn, and took her corporal Oath before the said *J. C.* and *R. S.* on the holy Gospel of God, and then and there, upon her Oath aforesaid, did say, depose, and swear, and give her Examination in Writing, as followeth, to wit, “ Examination of *M. C.* of the Parish of “ *Orleton*, in the County of *Hereford*, single Woman, upon her Oath saith, That on or about “ the twentieth Day of *November*, in the Year “ of our Lord One thousand seven hundred and “ sixty-one, she was delivered of a Female Bastard- “ Child, in the said Parish of *Orleton*, in the said “ County of *Hereford*; and that *F. P.* of the “ Town of *Ludlow*, in the County of *Salop*, Gentleman, is the Father of the said Bastard-Child; “ and saith, that the said Bastard-Child hath been “ chargeable to the Parish of *Orleton*, and is likely “ so to continue: And further saith, that the “ Charge and Expence of her Lying-in was paid by “ the Churchwardens and Overseers of the Poor of “ the said Parish of *Orleton*, or some or one of them, “ she being unable to maintain herself,” as by the said Examination (Relation being thereunto had) doth and may appear: Whereupon they the said *J. C.* and *R. S.* the Justices aforesaid, pursuant to the Statute in such Case made and provided, afterwards, to wit, the same sixteenth Day of *March*, in the said first Year of the Reign of our said Lord the King, at the Parish of *Orleton* aforesaid,

in

in the County aforesaid, by a certain Order under their Hands and Seals duly made, bearing Date the same Day and Year last above mentioned, did adjudge the said *F. P.* of the Town of *Ludlow*, in the County of *Salop*, Gentleman, to be the putative Father of the said Bastard-Child, and that as well for the Relief of the same Parish of *Orleton*, in Part, as also for the Provision and Maintenance of the said Bastard-Child, that he the said *F. P.* should, weekly and every Week, from the Day of the Date of the said Order, and so long as the said Bastard-Child should be chargeable to the said Parish of *Orleton*, pay, or cause to be paid, to the Churchwardens, or Overseers of the Poor of the said Parish of *Orleton*, for the Time being, the Sum of eighteen Pence, for and towards the Maintenance of the said Bastard-Child; and that he the said *F. P.* should then forthwith, upon Notice of the same Order, pay, or cause to be paid, to the Churchwardens or Overseers of the Poor of the said Parish of *Orleton*, the Sum of six Pounds of lawful Money of *Great Britain*, it then appearing unto the same Justices, that so much had necessarily been disbursed and paid by the Churchwardens and Overseers of the Poor of the said Parish of *Orleton*, by Reason and on Account of the Birth and Maintenance of the said Bastard-Child; and that the said *F. P.* should give sufficient Security to the Churchwardens and Overseers of the Poor of the Parish of *Orleton* aforesaid, well and truly to perform so much thereof, as did concern the said *F. P.* and which, on the Part of the said *F. P.* was by the same Order ordered to be done and performed, as by the same Order (Relation being thereunto had) may more fully appear; of which said Order the said *F. P.* afterwards, to wit, on the seventeenth Day of *March*, in the Year aforesaid, at *Ludlow* aforesaid, in the said County of *Salop*,
D d 2 had

had Notice. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That afterwards, to wit, at the General Quarter-Sessions of the Peace of our Sovereign Lord the King, holden at *Hereford*, in and for the County of *Hereford*, on *Tuesday*, in the first Week next after the Close of *Easter*, to wit, on the twenty-third Day of *April*, in the said first Year of the Reign of our said Sovereign Lord *George* the Third, now King of *Great Britain, &c.* before *J. S.* Esqrs. Sir *J. M.* Baronet, *E. H. V. C.* Esquires, and other their Fellows, Justices of our said Lord the King, assigned to keep the Peace in the said County of *Hereford*, and also to hear and determine divers Felonies, Trespasses, and other Misdeeds, committed in the same County, the said *F. P.* did then and there, in due Form of Law, appeal to the said Court of General Quarter-Session of the Peace against the said Order of Adjudication, made by the said *J. C.* and *R. S.* the two Justices first above named, in Manner and Form as aforesaid, and afterwards, to wit, at the same General Quarter-Session of the Peace of our said Lord the King, holden at *Hereford* aforesaid, in and for the said County of *Hereford*, by Adjournment, on *Thursday*, the twenty-sixth Day of the same Month of *April*, in the said first Year of the Reign of our said Lord the King, before *J. S.* Esq; Sir *J. M.* Baronet, *E. H. V. C.* Esquires, and other their Fellows aforesaid, the said Appeal came on to be heard, and then and there was heard before the Justices of our said Lord the King last named, and other their Fellows aforesaid: And the said *M. C.* then and there was sworn, and took her corporal Oath before the same Justices last named, on the Holy Gospels of God, to speak the Truth, the whole Truth, and nothing but the Truth, of and upon the Premises aforesaid (they the said Justices last named, then and

and there having sufficient Power and Authority to administer an Oath to the said *M. C.* in that Behalf) and the said *M. C.* not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, and wickedly and maliciously contriving and intending, not only to deprive the said *F. P.* of his good Name, Fame, and Reputation, but also falsely to charge the said *F. P.* with begetting her with Child at *Hereford* aforesaid, in the County of *Hereford* aforesaid, on the said twenty-fifth Day of *April*, in the said first Year of the Reign of our said Lord the King, did falsely, wickedly, and corruptly, on her Oath aforesaid, before the said Justices of our said Lord the King, last above named, and other their Fellows aforesaid, say, depose, swear, and give Evidence upon the Hearing of the said Appeal, as followeth: "That
 " Mr. *P.* (meaning the said *F. P.*) begot me
 " (meaning her the said *M. C.*) with Child, at his
 " own House in *Ludlow* (meaning the House of
 " the said *F. P.* situate in the Town of *Ludlow*,
 " in the County of *Salop*) in the lower Room
 " (meaning a Room in the said House of the said
 " *F. P.*) next the Street, upon a Bed that was in
 " the Room (meaning the Room aforesaid) in the
 " Month of *February*, One thousand seven hun-
 " dred and sixty-one (meaning the Month of *Fe-*
 " *bruary* in the Year of our Lord, One thousand
 " seven hundred and sixty-one;" whereas in Truth and in Fact, the said *F. P.* did not beget the said *M. C.* with Child, at his own House at *Ludlow*, in the lower Room next the Street, or in any Room or Place in the said House of the said *F. P.* or in any other Place whatsoever. And whereas in Truth and in Fact, there was not then, to wit, in the said Month of *February*, One thousand seven hundred and sixty-one, any Bed whatsoever in the lower Room next the Street, in the said House of

him the said *F. P.* and whereas in Truth and in Fact, the said *F. P.* never had carnal Knowledge of the Body of the said *M. C.* And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *M. C.* the said twenty-fifth Day of *April*, in the said first Year of the Reign of our said Lord the King, at *Hereford* aforesaid, in the said County of *Hereford*, before the same Justices last above named, and other their Fellows aforesaid, so as aforesaid (having sufficient Power and Authority to administer the said Oath to the said *M. C.*) falsely, maliciously, wickedly, and corruptly, on her Oath aforesaid, in Manner and Form aforesaid, did commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, to the great Damage of the said *F. P.* and against the Peace of our said Lord the King, his Crown and Dignity.

For Perjury in an Affidavit before a Judge of the Common Pleas, in Order to hold a Man to Bail.

London. **T**HE Jurors for our Lord the King upon their Oath present, That *T. D.* late of the Parish of *Whitney*, in the County of *Oxford*, Taylor, wickedly and maliciously contriving and intending, one *W. H.* unlawfully to aggrieve, and also the said *W.* to great Expence of his Monies, wickedly to induce and bring, and also to cause the Sum of forty two Pounds eight Shillings and Sixpence, to be indorsed upon a Process of the Court of our said Lord the King, of the Bench, by Virtue of which, the said *W.* was arrested to answer in the same Court, at the Suit of *R. P.* and others, the Assignees of the Commissioners

fioners in a Commission of Bankruptcy, issued
 against the said *T. D.* with an Intent that the said
W. should be compelled to find Bail for the afore-
 said Sum of forty-two Pounds eight Shillings and
 Sixpence, according to the Form of the Statute in
 such Case lately made and provided, he the said
T. D. on the twenty-sixth Day of *December*, in
 the first Year of the Reign of our Sovereign Lord
George the Third, now King of *Great Britain*,
France, and *Ireland*, Defender of the Faith, at
London, to wit, in the Parish of *St. Dunstan* in the
West, in the Ward of *Farringdon* Without, in *Lon-*
don aforesaid, came in his proper Person before
T. R. Esq; then being one of the Justices of our
 said Lord the King, of the Bench, and then and
 there did take his corporal Oath upon the Holy
 Gospels of God, before the said *T. R.* (he the said
T. R. then and there having sufficient Power and
 Authority to administer an Oath to the said *T. D.*
 in that Behalf) and that the said *T. D.* not having
 the Fear of God before his Eyes, but being moved
 and seduced by the Instigation of the Devil, then
 and there, before the said *T. R.* upon his Oath
 aforesaid, falsely, maliciously, wickedly, and cor-
 ruptly did say, depose, swear, and make *Affidavit*
 in Writing, which same *Affidavit* is entitled as fol-
 loweth, to wit, In the common Bench, between *R. P.*
 and others, Assignees of the Commissioners in a Com-
 mission of Bankruptcy, issued against *T. D.* Plaintiffs,
 and *E. W.* of *Whitney*, in the County of *Oxford*,
 Gent. and *W. H.* of *Whitney* aforesaid, Defendants,
 and was made by the said *T. D.* in these Words and
 Figures following: “ *T. D.* the Person against
 “ whom the Commission of Bankruptcy is issued
 “ (meaning himself the said *T. D.*) maketh Oath,
 “ that in or about the Month of *March*, One
 “ thousand seven hundred and sixty-one, this De-
 “ ponent informed Mr. *E. W.* and *W. H.* then
 D d 4 “ living

408 **Precedents of Indictments, &c.**

“ living in *Whitney*, in the County of *Oxford*, that
 “ that this Deponent was in a declining Condition,
 “ with Respect to his Circumstances in the World,
 “ and that he was not able to satisfy his Creditors;
 “ and some Time after, they asked this Deponent,
 “ what he was able to pay his said Creditors in the
 “ Pound? And on this Deponent’s saying he was
 “ able to pay his Creditors ten Shillings in the
 “ Pound, the said *E. W.* said he was a Fool to
 “ think of such a Proposal, for that two Shillings
 “ and Six pence in the Pound was an honourable
 “ Composition, and that the said *W.* and *H.* then,
 “ and frequently afterwards, pressed this Deponent
 “ to buy up what Goods he could, and they would
 “ put this Deponent in a Way to make up with
 “ his Creditors, and have two or three hundred
 “ Pounds in his Pocket; and upon the pressing
 “ and repeated Importunities of the said *W.* and
 “ *H.* this Deponent bought several Goods, great
 “ Part of which he delivered to the said *W. H.*
 “ And this Deponent further saith, that on or
 “ about the twenty-first Day of *October*, One thou-
 “ sand seven hundred and sixty-one, the said *E. W.*
 “ came to this Deponent, and told him he had
 “ considered of this Deponent’s Case, and found
 “ nothing would do to clear him but a Commis-
 “ sion of Bankruptcy; and upon this Deponent’s
 “ saying he did not see how that could do him any
 “ Good, since, as he was informed, all his Books
 “ and Papers must be laid before the Commission-
 “ ers on Oath; the said *E. W.* said this Deponent
 “ was a Fool, for that he need only swear before
 “ the Commissioners, to all that he had when he
 “ should go off; and therefore advised this Depo-
 “ nent to state an Account with the said *W. H.*
 “ for the Dealings between the said *H.* and this
 “ Deponent; and this Deponent did accordingly,
 “ by the Advice of the said *H.* and *W.* on or about
 “ the

“ the said twenty-first Day of *October*, One thou-
“ sand seven hundred and sixty-one, state an Ac-
“ count with the said *H.* on Ballance of which
“ was due to this Deponent, the Sum of one hun-
“ dred eighty-five Pounds eleven Shillings and
“ Sixpence, or thereabouts ; and that the said *H.*
“ (meaning the said *W. H.*) then gave a Note of
“ his Hand for the said Ballance, payable to the
“ said *E. W.* or Order, three Months after Date,
“ and the said *W.* promised to lay it up for this
“ Deponent, and would indorse on the said Note,
“ it was in Trust for this Deponent ; whereupon
“ this Deponent, by the Advice of the said *H.*
“ and *W.* the same Day gave the said *H.* a Receipt
“ in full of all Demands, and about four or five
“ Days afterwards, by the Advice of the said *E.*
“ *W.* absconded from his usual Place of Abode, in
“ order to be a Bankrupt, and liable to have a Com-
“ mission of Bankruptcy taken out against him. And
“ this Deponent further saith, that a Commission of
“ Bankruptcy afterwards issued against this Depo-
“ nent, and this Deponent was, by the Commis-
“ sioners (on his Examination before them) com-
“ mitted to the *Poultry* Compter ; and when this
“ Deponent was in Prison there, the said *H.* came
“ to this Deponent, and told him it would be bet-
“ ter for him not to inform the Commissioners of
“ the said Note, for that if he did, both the said
“ *H.* and *W.* would deny the same. And this De-
“ ponent further saith, that after the Commission
“ was so issued, and this Deponent had been once
“ examined before the Commissioners, the said
“ *W.* come to this Deponent, and perswaded this
“ Deponent to deliver to the said *W.* a Note un-
“ der the Hand of Mr. *J. M.* for Payment of
“ twenty Pounds to this Deponent, or Order, and
“ and the said *W.* then advised this Deponent, in
“ Case any Enquiry was made after the said Note,
“ to

410 Precedents of Indictments, &c.

“ to say it was in the Hands of the said *H.* And
 “ this Deponent saith, that the Contents of the
 “ said Note, so delivered to the said *W.* by this
 “ Deponent, has been since received by the said
 “ *W.* or his Order, of the said Mr. *M.* and the
 “ said *W.* after the Commissioners had examined
 “ this Deponent, prevailed with this Deponent
 “ to let him have a Piece of Holland, Value se-
 “ ven Pounds twelve Shillings, which he said he
 “ would have for his Trouble in attending the
 “ Commissioners. And this Deponent further
 “ saith, that after this Deponent’s stating the afore-
 “ said Account (meaning the stating of the said
 “ Account, by him the said *T. D.* with the said
 “ *W. H.*) the said *H.* (meaning the said *W. H.*) pre-
 “ vailed with this Deponent (meaning himself the
 “ said *T. D.*) to intrust him (meaning him the said
 “ *W. H.*) with several Goods without paying for the
 “ same, and without any other Consideration, than
 “ to secrete them from this Deponent’s Creditors,
 “ which Goods were as follows: to wit, ten
 “ Pieces of Shags, Value twenty-seven Pounds
 “ and five Shillings; three Pieces of Coating, Va-
 “ lue fifteen Pounds, and thirty Yards of coloured
 “ Blanketing, Value three Shillings and Sixpence
 “ by the Yard; all which Goods being the proper
 “ Goods of this Deponent (meaning himself the
 “ said *T. D.*) were delivered or caused to be deli-
 “ vered by this Deponent (meaning himself the
 “ said *T. D.*) to the said *H.* (meaning the said *W.*
 “ *H.*) for the Purpose and Consideration above
 “ mentioned, and no other.” As by the same
Affidavit, affiled in the said Court of our said Lord
 the King, of the Bench of *Westminster*, in the County
 of *Middlesex*, more fully doth appear. Whereas
 in Truth and in Fact, the said *W. H.* in the *Affida-*
vit aforesaid named, did never give a Note of his
 Hand for the Sum of one hundred eighty-five
 Pounds

Pounds eleven Shillings and Sixpence, or any other Sum of Money for the Ballance of the Account in the *Affidavit* aforesaid mentioned) to pay to the said *E. W.* or Order, three Months after Date, or any other Note for the Ballance of any other Account whatsoever. And whereas in Truth and in Fact, after the stating of the aforesaid Account by him the said *T. D.* with the said *W. H.* he the said *W. H.* did not prevail with the said *T. D.* to intrust him (meaning the said *W. H.*) with ten Pieces of Shags, Value twenty-seven Pounds and five Shillings; three Pieces of Coating, Value fifteen Pounds, and thirty Yards of coloured Blanketing, Value three Shillings and Sixpence by the Yard, without paying for the same. And whereas in Truth and in Fact, after the stating of the aforesaid Account, no Goods or Chattels of the proper Goods of him the said *T. D.* were delivered or caused to be delivered by the said *T. D.* to the said *W. H.* for the Purpose and Consideration to secrete the said Goods from the Creditors of him the said *T. D.* And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *T. D.* on the said twenty-sixth Day of *December*, in the said first Year of the Reign of our said Sovereign Lord the King, at *London* aforesaid, in the Parish and Ward aforesaid, before the aforesaid *T. R.* so as aforesaid (having sufficient Power and Authority to administer the said Oath to the said *T. D.*) falsely, maliciously, wickedly, and corruptly, in Manner and Form aforesaid, did commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For Perjury in an Affidavit in the Marshalsea-Court, swearing a Man was indebted to him in Ten Pounds, when he was not in any wise indebted to him.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. C.* late of the Parish of *St. George, Southwark*, in the County of *Surry*, Yeoman, on the thirtieth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain, &c.* at the Palace Court of *Westminster*, of our said Lord the King, holden at *Southwark*, in the Parish and County aforesaid, and within the Jurisdiction of that Court, came in his proper Person before *J. P. Gent.* and then and there did produce and exhibit a certain *Affidavit*, in Writing, of him the said *A. C.* and then and there, the said *A. C.* in due Form of Law was sworn, and did take his corporal Oath upon the Holy Gospels of God, of the Matters in that *Affidavit* contained, before the said *J. P.* (he the said *J. P.* then and there having sufficient Power and Authority to administer an Oath to the said *A. C.* in that Behalf) and that the said *A. C.* then and there, upon his aforesaid Oath, taken before him the said *J. P.* as aforesaid, did swear that the Contents of his said *Affidavit* was true, and that the said *A. C.* so being sworn, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, and little regarding the Laws of this Realm, or the Penalties in the same contained, but his aforesaid Oath esteeming as nothing, then and there, upon his Oath aforesaid, in his *Affidavit* aforesaid, falsely, wilfully, and corruptly did say and swear, in these Words following, that is to say,
“ Palace

“ Palace Court, *A. C.* of the Parish of ——— in
 “ the County of *Surry*, Gent. maketh Oath, that
 “ *B. W.* was indebted to him, (meaning himself
 “ the said *A. C.*) ten Pounds for Rent.” Whereas
 in Truth and in Fact, the said *B. W.* was not in-
 debted to him the said *A. C.* in the aforesaid Sum
 of ten Pounds, or in any other Sum of Money
 whatsoever. And so the Jurors aforesaid, upon
 their Oath aforesaid, do say, That the said *A. C.*
 on the said thirtieth Day of *December*, in the said
 first Year of the Reign of our said Lord the King,
 at the Parish aforesaid, in the County aforesaid, in his
Affidavit aforesaid, before the said *J. P.* so as aforesaid,
 having sufficient Power and Authority to administer
 the said Oath to the said *A. C.* in Manner aforesaid,
 of his wicked Mind, falsely, maliciously, wilfully,
 and corruptly did commit wilful and corrupt Per-
 jury, to the great Displeasure of Almighty God,
 in Contempt of our said Lord the King and his
 Laws, to the great Damage of the said *B. W.* and
 against the Peace of our said Lord the King, his
 Crown and Dignity.

For Perjury in an Answer in Chancery.

Middlesex. **T**HE Jurors for our Lord the King
 upon their Oath present, That *E.*
F. Widow and Administratrix of all and singular
 the Goods and Chattels, Rights and Credits of *T.*
F. her late Husband, of *London*, Gentleman, de-
 ceased, on the fifteenth Day of *February*, in the
 ninth Year of the Reign of our Sovereign Lord
George the Second, King of *Great Britain, France,*
and Ireland, Defender of the Faith, &c. did ex-
 hibit her *English* Bill of Complaint in Writing, in
 the Court of *Chancery* of our said Lord the King
 (the same Court then being at *Westminster*, in the
 County of *Middlesex*) against one *H. T.* of *London*,
 Bwerer,

Brewer, and *P. J.* of the same Place, Apothecary; which said Bill of Complaint was directed to the Right Honourable *C. Lord T.* Baron of *H.* Lord High Chancellor of *Great Britain*: And the said *E. F.* in and by her said Bill of Complaint, among other Things, shewed, that whereas by Indenture of Lease, bearing Date on or about the fourteenth Day of *August*, in the tenth Year of the Reign of our late Sovereign Lord King *George* the First, and in the Year of our Lord One thousand seven hundred and twenty-three, and made, or mentioned to be made, between *L. W.* of the Parish of *St. Mary le Strand*, in the County of *Middlesex*, Woollen-Draper, of the one Part, and the said *H. T.* of *London* aforesaid, Brewer, of the other Part, he the said *L. W.* for and in Consideration of the Sum of twenty-seven Pound seven Shillings to him paid, by the said *H. T.* did, in and by the said Indenture of Lease, demise, grant, and to Farm let, unto the said *H. T.* his Executors, Administrators, and Assigns, all that Messuage or Tenement, commonly called or known by the Sign of the *Blue Bell*, situate, lying, and being in *Enfield*, in the said County of *Middlesex*, then or late before in the Tenure or Occupation of him the said *H. T.* together with all Rooms, Cellars, Vaults, Yards, Gardens, and Backsides to the same belonging; and also all those three Pieces and Parcels of Land and Meadow-Ground, commonly called and known by the Name of *Adam's Grounds*, adjoining to the said Messuage or Tenement, and then late before in the Tenure or Occupation of *B. B.* his Under-Tenants, or Assigns, and all Ways, Waters, Easements, Profits and Commodities whatsoever to the said Messuage or Tenement, Pieces or Parcels of Land, and other the Premises belonging, or in any wise appertaining, or reputed or taken as Part, Parcel, or Member thereof, together with their
and

and every of their Appurtenances, to have and to hold the said Messuage or Tenement, and Pieces or Parcels of Land, and all and singular other the Premisses, with the Appurtenances, unto the said *H. T.* his Executors, Administrators, and Assigns, from the second Day of *February*, then next ensuing, for and during, and until the full End and Term of ninety-nine Years thence next ensuing and fully to be compleat and ended, yielding and paying, yearly and every Year, during the said Term, unto the said *L. W.* and his Heirs the clear yearly Rent of twenty Pounds six Shillings, to be paid on four Days of Payment in the Year, that is to say, the first Day of *May*, the first Day of *August*, the first Day of *November*, and the first Day of *February*, during the said Term, by even and equal Portions, free from all Manner of Taxes, or other Deductions whatsoever, as in and by the said last in Part recited Indenture of Lease (Relation being thereunto had) and whereto the said Complainant craved Leave to refer herself, would, when produced to that honourable Court, more fully and at large appear. And the said Complainant further charged, that the said *H. T.* being possessed by Virtue of the said Indenture of Lease, of all the Premisses therein mentioned, had sufficient Power and Authority to charge the said Premisses as he thought proper; and accordingly, he the said *H. T.* having Occasion for the Sum of One hundred Pounds, did apply himself to *M. F.* Spinster, to lend him the same: And the said Complainant further charged, that pursuant to such Application, the said *M. F.* was prevailed on to advance, and did actually lend the Sum of One hundred Pounds to him the said *H. T.* and that for securing the Repayment thereof with Interest, by Indenture of Mortgage, bearing Date on or about the second Day of *September*, in the twelfth Year of the Reign of our late Sovereign
Lord

416 *Precedents of Indictments, &c.*

Lord *George* the First, and in the Year of our Lord One thousand seven hundred and twenty-five ; and made, or mentioned to be made, between the said *H. T.* of the one Part, and the said *M. F.* of the other Part ; he the said *H. T.* in Consideration of the Sum of One hundred Pounds so as aforesaid paid by the said *M. F.* did, in and by the said Indenture of Mortgage, grant, bargain, sell, assign, transfer, and set over unto the said *M. F.* her Executors, Administrators, and Assigns, all and singular, the Messuage, Lands, and Premises, with their Appurtenances, which he the said *H. T.* was possessed of, by Virtue of the aforesaid Indenture of Lease, and all the Estate, Right, Title, Interest, Property, Claim, and Demand whatsoever, of him the said *H. T.* of, in or to the said Premises, unto the said *M. F.* her Executors, Administrators, and Assigns, for, and during all the Rest and Residue of the said Term of ninety-nine Years, before recited, which was then to come and unexpired, in as large and ample Manner as he the said *H. T.* his Executors, Administrators or Assigns, had or ought to have ; subject nevertheless to a *Proviso* or Condition of Redemption therein contained, to be void on Payment of the said Sum of One hundred Pounds, with the legal Interest thereof, by the said *H. T.* his Executors, Administrators or Assigns, at a certain Day therein mentioned, and long since past, as, in, and by the said Indenture of Mortgage, Relation being thereunto had, and whereto the said Complainant craved Leave to refer herself, would, when produced to that honourable Court, more fully and at large appear ; and the said Complainant did further set forth, that the said *M. F.* some Time in the Month of *July*, One thousand seven hundred and twenty-eight, departed this Life, and died Intestate ; and the said Complainant did further set forth,

that

that whereas by Indenture tripartite, bearing Date on or about the second Day of *March*, in the second Year of the Reign of our Sovereign Lord *George* the Second, and in the Year of our Lord One thousand seven hundred and twenty-eight, and made, or mentioned to be made, between the Reverend *R. F.* of the Parish of *St. Martin in the Fields*, in the said County of *Middlesex*, Doctor in Divinity, Administrator of all and singular the Goods and Chattels of the aforesaid *M. F.* deceased, of the first Part, the said *H. T.* of the second Part, and the said Complainant's late Husband, *T. F.* of the third Part; the said *R. F.* at the Desire, and by the Consent of the said *H. T.* witnessed by his being Party to the same Indenture; and in Consideration of the Sum of One hundred and ten Pounds, paid to the said *R. F.* by the said *T. F.* and in Consideration of the further Sum of ten Pounds paid to the said *H. T.* by the said *T. F.* they, the said *R. F.* and *H. T.* did severally grant, assign, and set over unto the said *T. F.* his Executors and Administrators, the Messuage, Lands and Premises, with their Appurtenances herein before mentioned and recited Indenture of Lease, to hold the said Messuage, Lands, and Premises, with their Appurtenances, to the said *T. F.* his Executors, Administrators, and Assigns, for and during the Remainder of the Term of ninety-nine Years then unexpired, subject nevertheless to a Proviso or Condition of Redemption therein mentioned to be void on Payment by the said *H. T.* his Heirs, Executors or Administrators, or any of them, unto the said *T. F.* his Executors, Administrators or Assigns, of the Sum of One hundred and twenty-six Pounds, at a certain Day therein mentioned, and long since past, as in and by the said recited Indenture tripartite, Relation being thereto had) and whereto the said Complainant craved Leave to refer herself,

E. e

would,

would, when produced to that Honourable Court more fully appear; and the said Complainant, in and by her said Bill of Complaint, did further shew, That she the said Complainant finding, after the Decease of her said late Husband *T. F.* that great Arrears of Interest were due and owing for the said Sum of One hundred and twenty Pounds in her said late Husband's Life-time, and that the said Arrears of Interest were at the Time of the exhibiting the said Bill of Complaint unpaid, and that the said Premises were but a very scanty Security for the Payment of the whole Sum, both Principal and Interest, then due thereupon, the said Complainant therefore in a friendly Manner did apply herself to the said *H. T.* and requested him to pay the said Complainant the said principal Sum of One hundred and twenty Pounds, and Interest due for the same; and the said Complainant in and by her said Bill of Complaint did further set forth, That the said *H. T.* combining with the said *P. J.* and with divers other Persons to the said Complainant unknown, they the said Confederates set up divers very unjust and unreasonable Pretences, in order to injure and oppress the Complainant, and for that Purpose they sometimes did pretend that the said *H. T.* had conveyed the aforesaid Premises to some other Person or Persons for a valuable Consideration, and thereby made an absolute Sale of the same before the same were assigned over to the said Complainant's late Husband, and that at other Times the said Confederates gave out in Speeches, that the said *H. T.* had mortgaged the said Premises before to the said *P. J.* and that the said *H. T.* had only the Equity of Redemption in him when he conveyed the said Premises to the said Complainant's said Husband, and that therefore, if the said Complainant would have any Benefit of the said Premises, the said Complainant must pay off
the

the prior Mortgage: And at other Times the said Confederates pretended, that the Premises are subject to some other Charge or Incumbrances, so that the same are no ways liable to the Demand of the said Complainant; but refused to discover the Nature of such Incumbrances, or when, or on what Consideration the same were created, or whether such pretended Incumbrances were not subsequent in Time to the said Mortgage or Security made to the said *M. F.* by the said *H. T.* and when or in what Manner the same did arise; and at other Times the said Confederates pretended, that the said *H. T.* had confessed Judgments to divers Persons, to which the said Premises were liable, and the said *H. T.* did refuse to pay or satisfy the said Complainant her just Demands, and the said Complainant in her said Bill of Complaint did pray, that the said *H. T.* and *P. J.* the Defendants aforesaid, might set forth and discover if any and what Incumbrances there were upon the said Premises, other than besides the Complainant's Demands, and in particular what, if any Estate, Right, Title, or Interest, he the said *P. J.* or any other Person or Persons in Trust for him, had thereto, or to any, and what Part thereof and from what Time such Estate commenced and took Place, and on what Consideration the same was obtained or created; and that the said Confederates might set forth and discover all and every other Incumbrances there were upon the Premises, and the Nature and Kind of them, and who, by Name, pretended to claim any Right, Title, or Interest, in or to the said Premises, and for what Considerations; and that the said Defendants might set forth the yearly Value of the said Premises, and that the said Defendants might come to a fair and just Account with the said Complainant touching the Particulars aforesaid, and make them Satisfaction for so much as upon a fair Account should appear to be due on

the Credit of the aforesaid Premisses in a short Day to be fixed by that Honourable Court, or in Default thereof, that the said Defendants might be debared and foreclosed of and from all Right, Title, and Equity of Redemption of, in, and to the said Premisses, and every Part and Parcel thereof, as in and by the said Bill of Complaint of the said *E. F.* remaining affiled of Record in the said Court of *Chancery* at *Westminster* aforesaid, in the said County of *Middlesex* (among other Things more fully doth appear : And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *P. J.* who was, and is, one of the Defendants named in the said Bill of Complaint of the said *E. F.* afterward, that is to say, on the twelfth Day of *August*, in the ninth Year of the Reign of our now said Lord the King, at the Parish of Saint *Dunstan in the West*, in the said County of * *Middlesex*, came in his own proper Person before *A. A.* Esq; then being one of the Masters of the said Court of *Chancery*, and then and there before the said *A. A.* Esquire, exhibited and produced the Answer in Writing of him the said *P. J.* to the aforesaid Bill of Complaint of her the said *E. F.* intituled, The separate Answer of *P. J.* Gentleman, one of the Defendants, to the Bill of Complaint of *E. F.* Widow, Complainant, and that the said *P. J.* being then and there sworn in due Form of Law upon the Holy Gospels of God before the said *A. A.* Esquire, then being one of the said Masters of the said Court of *Chancery*, and then and there having sufficient Power and Authority to administer an Oath in that Behalf to the said *P. J.* he the said *P. J.* did, upon his corporal Oath, concerning the Matters contained in his said Answer, before the said *A. A.* then as aforesaid being one of the said Masters of the said Court of *Chancery*, then

* *Note*, The greater Part of the Parish of St. *Dunstan* is in *London*.

and there swear, that so much of the said Answer of him the said *P. J.* so as aforesaid produced and exhibited before the said *A. A.* as concerned the Act and Deed of him him the said *P. J.* he the said *P. J.* knew to be true, and that so much of the said Answer of him the said *P. J.* as concerning the Act and Deed of any Person, he the said *P. J.* believed to be true; and the said *P. J.* not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, and minding and intending unjustly to aggrieve the said *E. F.* the Complainant aforesaid, did then and there upon his Oath aforesaid, in his Answer aforesaid, before the said *A. A.* then and there being one of the said Masters of the said Court of *Chancery*, knowingly, falsely, wickedly, maliciously, wilfully, and corruptly, by his own Act and Consent (among other Things) answer, swear, and affirm in Writing as followeth, that is to say, and this Defendant (meaning himself the said *P. J.*) says, he does not know what the yearly Value of the said Premisses are (meaning the Value of the Messuage and Lands in the said Bill of Complaint, mentioned and herein also before specified) but hath heard and believes they are of greater yearly Value than the said Rent of twenty Pounds six Shillings, reserved in and by the said Lease, made to the said *H. T.* and this Defendant (meaning again himself, the said *P. J.*) says, he (meaning again himself, the said *P. J.*) never received any of the Rents, Issues, or Profits, of the said Premisses meaning again the Messuage and Lands in the said Bill of Complaint, mentioned and herein also before specified) and therefore denies, he (meaning again himself the said *P. J.*) is any way accountable to the Complainant (meaning the said *E. F.* the Complainant aforesaid) for any the Matters or Things in the Bill mentioned (mean-

ing the aforesaid Bill of Complaint) as by the said Answer of him, the said *P. J.* remaining affiled of Record in the said Court of *Chancery* at *Westminster* aforesaid, in the said County of *Middlesex*, (among other Things) more fully doth appear; whereas in Truth and in Fact, at the Time when he the said *P. J.* so took his Oath aforesaid, in Form aforesaid, he the said *P. J.* well knew what was the yearly Value of the said Premisses, that is to say, the yearly Value of the said Messuage and Lands in the said Bill of Complaint, mentioned, and herein also before specified; and whereas in Truth and in Fact, he the said *P. J.* at that Time knew the yearly Value of the same Premisses to be thirty-eight Pounds; and whereas in Truth and in Fact, before he the said *P. J.* took his Oath aforesaid, in Form aforesaid, he the said *P. J.* had received some of the Rents, Issues, Profits of the said Premisses, that is to say, of the Messuage and Lands in the said Bill of Complaint mentioned and herein also before specified; and whereas in Truth and in Fact, he the said *P. J.* on the twenty-first Day of *May*, in the said eighth Year of the Reign of our said now Lord the King, at *Endfield* aforesaid, in the said County of *Middlesex*, did receive of *J. P.* then being one of the Under-tenants of Part of the same Premisses, the Sum of fourteen Pounds, fourteen Shillings and three Pence, in Money, and did then allow him the said *J. P.* a Bill of Repairs of three Pounds, five Shillings and three Pence, in Full for one Year's Rent for Part of the same Premisses, ending at *Christmas* then last past: And so the Jurors aforesaid, upon their Oath aforesaid, do say, That the said *P. J.* on the said twelfth Day of *August*, in the said ninth Year of the Reign of our said now Lord the King, at the said Parish of *Saint Dunstan in the West*, in the said County of *Middlesex*, before the said *A. A.* then being one of the
said

said Masters of the said Court of *Chancery*, and then and there having sufficient Power and Authority to administer the aforesaid Oath to the said *P. J.* did knowingly, falsely, wickedly, maliciously, and corruptly, in Manner and Form aforesaid, commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, and against the Peace of our said now Lord the King, his Crown and Dignity.

*For Perjury on a Trial of an Issue at the Sit-
tings at Westminster.*

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That formerly, to wit, in the Term of Saint *Michael*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. in the Court of our said Lord the King, before the King himself (the same Court then being at *Westminster*, in the County of *Middlesex*) amongst the Pleas of the said Term, on the twenty-sixth Day of *October*, in that same Term, *S. P.* by *R. S.* his Attorney, impleaded *B. S.* present there in Court the same Day, of a Plea of *Trespas* on the Case, for that, whereas the said *B.* on the first Day of *October* in the Year of our Lord One thousand seven hundred and sixty-one, at *Westminster*, in the said County of *Middlesex*, was indebted to the said *S.* in thirty-nine Pounds of lawful Money of *Great Britain*, for divers Goods, Wares, and Merchandizes, by the said *S.* to the said *B.* before that Time sold and delivered, at the special Instance and Request of the said *B.* and being so indebted, the said *B.* in Consideration thereof, afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, took upon himself, and to the said *S.* then and there faithfully promised, that he the said *B.* the said

thirty-nine Pounds to the said S. would well and truly pay and content, when he should afterwards be thereunto required: And, whereas also the said B. afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, was indebted to the said S. in the further Sum of thirty-nine Pounds of like lawful Money of *Great Britain*, for divers other Goods, Wares, and Merchandizes, by the said S. to the said B. before that Time also sold and delivered at his like special Instance and Request, and being so indebted, the said B. in Consideration thereof, afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, took upon himself, and to the said S. then and there faithfully promised, that he the said B. would well and truly pay and content to the said S. so much Money for the said last mentioned Goods, Wares, and Merchandizes, as the same were reasonably worth at the Time of the Sale and Delivery thereof, when he should be afterwards thereunto required: And the said S. in fact said, that the said last mentioned Goods, Wares, and Merchandizes, so sold and delivered to the said B. by the said S. as aforesaid, were, at the Time of the Sale and Delivery thereof, reasonably worth other thirty-nine Pounds of like lawful Money, that is to say, at *Westminster* aforesaid, in the County aforesaid, of which the said B. afterwards, to wit, the same Day and Year last aforesaid, at *Westminster* aforesaid, in the County aforesaid, from the said S. had Notice: And whereas also the said S. afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, had accounted, together with the said B. of and concerning divers other Sums of Money from the said B. to the said S. before that Time due and owing, and then in Arrear and unpaid, and upon such Account the said B. was then and there found to be in Arrear to the
said

saïd S. in the further Sum of thirty-nine Pounds of like lawful Money ; and being so found in Arrear, the saïd B. afterwards, to wit, the same Day and Year last mentioned, at *Westminster* aforesaid, in the County aforesaid, took upon himself, and to the saïd S. then and there faithfully promised, that he the saïd B. the saïd last mentioned Sum of thirty-nine Pounds to the saïd S. would well and truly pay and content, when he the saïd B. should be afterwards thereunto required : Nevertheless the saïd B. in no wise regarding his several Promises and Undertakings aforesaid, but contriving and fraudulently intending the saïd S. in that Particular unjustly to deceive and defraud, the saïd several Sums of Money, or any Part thereof, to the saïd S. had not paid, nor in any Manner contented him for the same (although to do this the saïd B. on the same Day and Year last aforesaid, at *Westminster* aforesaid, in the County aforesaid, by the saïd S. had been requested) but had hitherto absolutely refused, and then did refuse so to do, to the Damage of the saïd S. of One hundred Pounds ; and therefore he brought that Suit ; and that afterwards, to wit, on *Monday* next after the Octave of St. *Hilary*, in the saïd first Year of the Reign of our saïd now Lord the King, until which Day the saïd B. S. had Licence to imparle to the aforesaid Bill of the saïd S. and then to Answer, &c. before our saïd Lord the King at *Westminster*, came the aforesaid B. S. by *H. P.* his Attorney, and defended the Force and Injury when and so forth, and saïd, that he did not assume upon himself in Manner and Form, as the saïd S. by his saïd Bill had complained against him, and concerning that did put himself upon his Country, and the aforesaid S. P. did the same ; whereupon it was in such wise proceeded between the Parties aforesaid, in the saïd Court upon the Issue aforesaid, that afterwards, to wit,

426 **Precedents of Indictments, &c.**

wit, on the fourteenth Day of *February*, in the said first Year of the Reign of our said Lord the King, before R. Lord R. then Chief Justice of our said Lord the King, assigned to hold Pleas before the King himself at *Westminster* aforesaid, in the *Great Hall* of Pleas, there vulgarly called *Westminster-Hall*, by the Form of the Statute, and so forth, the same Issue came to be tried, and then and there was tried by a Jury of the Country, in that Behalf taken between the Parties aforesaid, as by the Record thereof, now remaining affiled in the said Court of our said Lord the King, before the King himself at *Westminster* aforesaid, in the said County of *Middlesex*, doth more fully and at large appear. And the Jurors aforesaid, now here sworn and charged to inquire for our said Lord the King, for the Body of the said County of *Middlesex*, upon their Oath aforesaid, do further present, That Z. A. late of the Parish of St. *Margaret, Westminster*, in the said County of *Middlesex*, Yeoman, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, and minding and intending unjustly to aggrieve the said B. S. the Defendant above named, and wickedly to cause and procure a Verdict to pass against the said B. S. on the said Issue so joined as aforesaid, and thereby to make the said B. S. liable to the Payment of great Sums of Money, he the said Z. A. on the said fourteenth Day of *February*, in the Year aforesaid, at *Westminster* aforesaid, to wit, at the said Parish of St. *Margaret Westminster*, in the County aforesaid, came before the said R. Lord R. then as aforesaid, being Chief Justice of our said Lord the King, assigned to hold Pleas before the King himself, and then and there before the said R. Lord R. he the said Z. A. did take his corporal Oath upon the Holy Gospels of God, to speak the Truth, the whole Truth, and nothing but

but the Truth, of and upon the Premises in the said Issue so as aforesaid joined (he the said R. Lord R. then and there having sufficient Power and Authority to administer an Oath to the said Z. A. in that Behalf) and the said Z. A. so being sworn, he the said Z. A. then and there before the said R. Lord R. Chief Justice aforesaid, falsely, corruptly, wilfully, and maliciously, did say, depose, and give Evidence to the Jurors of the said Jury so as aforesaid, taken between the Parties aforesaid, that he (meaning himself the said Z. A.) on the tenth Day of *November* last (meaning the tenth of *November* in the said first Year of the Reign of our said Lord the King) was at the House of one Mr. M. at *Islington* (meaning the House of one J. M. at *Islington*, in the County of *Middlesex*) and that he (again meaning himself the said Z. A.) did see the Defendant (meaning the said B. S.) there, and he (again meaning himself the said Z. A.) did then deliver an Account in Writing (meaning an Account between the said S. P. and the said B. S.) and the said B. S. did then accept of the same Account, and said, he (meaning the said B. S.) would consider thereof, and immediately afterwards (meaning the said tenth Day of *November*) he (again meaning the said Defendant) did acknowledge the Account (meaning the Account aforesaid) and that he (again meaning the said B. S.) owed Mr. P. (meaning the said S. P.) thirty-nine Pounds; whereas in Truth and in Fact, the said B. S. on the tenth Day of *November* last, was not at the House of Mr. M. at *Islington*; and whereas in Truth and in Fact, the said Z. A. did never deliver any Account in Writing to the said B. S. and whereas in Truth and in Fact, the said B. S. did never acknowledge any Account between him the said S. P. and the said B. S. or that he owed the said S. P. thirty-nine Pounds,
or

428 **Precedents of Indictments, &c.**

or any Sum of Money whatsoever ; and whereas in Truth and in Fact, the said *B. S.* never had any Discourse with the said *Z. A.* concerning any Account whatsoever. And so the Jurors aforesaid, now here sworn and charged to inquire for our said Lord the King, for the Body of the said County, upon their Oath aforesaid, do say, that the said *Z. A.* on the said fourteenth Day of *February*, in the Year aforesaid, at the said Parish of *St. Margaret, Westminster*, in the County aforesaid, before the said *R. Lord R.* Chief Justice aforesaid (he the said *R. Lord R.* then and there having sufficient Power and Authority to administer the said Oath to the said *Z. A.* in Form aforesaid) did in Manner and Form aforesaid, commit wilful and corrupt Perjury, to the great Displeasure of Almighty God, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Perjury is a corrupt and voluntary false Oath.

5 Mod. 350.

This Offence must be wilful ; no one ought to be found guilty thereof without clear Proof, that the false Oath alledged against him was taking with some Degree of Deliberation ; for if upon the whole Circumstances of the Case it shall appear probable, that it was owing rather to Weakness than Perverseness of the Party, as where it was occasioned by Surprise, or Inadvertancy, or a Mistake of the true State of the Question, it cannot but be hard to make it amount to voluntary and corrupt Perjury, which is of all Crimes whatsoever the most infamous and detestable.

Cro. Eliz. 168,
169.

Noy 128.

2 Rol. Ab. 157.

Hob. 62.

It seems to be clearly agreed, that all such false Oaths as are taken before those who are any Ways intrusted with the Administration of publick Justice, in Relation to any Matter before them

in

in Debate, are properly Perjuries; and it seems to have been holden by some, that all such false Oaths as are taken before Persons authorized by the King to examine Witnesses in Relation to any Matter whatsoever, wherein his Honour or Interest are concerned, are also punishable as Perjuries. Not only such Persons are indictable for Perjury, who take a false Oath in a Court of Record, upon an Issue therein joined, but also all those who forswearing themselves in a Matter judicially depending before any Court of Equity, or Spiritual Court, or any other lawful Court, whether the Proceedings therein be of Record or not, or whether they concern the Interest of the King, or Subject. And it is said to be no Way material, whether such false Oath be taken in the Face of the Court, or before Persons authorized by it to examine a Matter, the Knowledge whereof is necessary for the right Determination of a Cause; and therefore a false Oath before a Sherif, upon a Writ of Inquiry of Damages, is as much punishable as if it were taken before the Court on the Trial of a Cause.

It is said not to be material whether the Fact which is sworn, be in itself true or false, for howsoever the Thing sworn may happen to prove agreeable to Truth; yet if it were not known to be so by him who swears to it, his Offence is altogether as great as if it had been false, inasmuch as he wilfully swears, that he knows a Thing to be true, which, at the same Time, he knows nothing of.

No Oath shall amount to Perjury, unless it be sworn absolutely and directly; and therefore, he who swears a Thing according as he thinks, remembers, or believes, cannot,

Cro. El. 907.
1 Sid. 418.
1 Rol. Ab. 40.
pl. 16, 17, 18,
20, 21.
5 Mod. 348.
Cro. Eliz. 185.
609.
2 Rol. Rep. 410.
1 Rol. Ab. 40.
pl. 12.

Palm. 294.
Hetley, 97.
2 Rol. Ab. 77.
pl. 5.
3 Inst. 166.

3 Inst. 166.

in

430 **Precedents of Indictments, &c.**

in Respect of such an Oath, be found guilty of Perjury.

By the Stat. 5 Eliz. c. 9. Sect. 6. That if any Person or Persons, by their own Act, Consent, or Agreement, wilfully and corruptly commit any Manner of wilful Perjury, by his or their Deposition in any of the Courts, therein mentioned, or being examined, ad perpetuam rei memoriam, that then every Person and Persons so offending, and being thereof duly convicted, or attainted by the Laws of this Realm, shall, for his or their said Offence, lose and forfeit twenty Pounds, and to have Imprisonment for the Space of six Months, without Bail or Mainprize; and the Oath of such Person or Persons so offending, from thenceforth not to be received in any Court of Record within this Realm of England or Wales, or the Marches of the same, until such Time as the Judgment given against such Person or Persons shall be reversed by Attaint or otherwise; and that upon every such Reversal, the Parties grieved to recover his or their Damages against all and every such Person or Persons as did procure the said Judgment so reversed to be given against them, or any of them, by Action or Actions, to be sued upon his or their Case or Cases, according to the Course of the common Laws of this Realm.

*And if it shall happen, the said Offender or Offenders so offending, not to have any Goods or Chattels to the Value of twenty * Pounds, that then he or they to be set on the Pillory, in some Market-Place, within the Shire, City, or Borough, where the said Offence shall be committed, by the Sherifff or his Ministers, if it shall fortune to be without any City or Town-corporate; and if it shall happen to be within such City or Town-corporate, then by the Head Officer or Officers of such City or Town-corporate, or by his or*

* The Authority to punish Perjury given by the Stat. 11. Hen. c. 25. saved.

their

their Ministers, and there to have both his Ears nailed, and from thenceforth be discredited and disabled for ever to be sworn in any of the Courts of Record aforesaid, until such Time as the Judgment shall be reversed, and thereupon to recover his Damages in Manner and Form before mentioned.

One Moiety of the Forfeiture to the Queen, her Heirs and Successors, the other to the Party grieved, &c. that will sue for the same.

As well the Judge and Judges of every of the Courts where any such Suit is or shall be, and whereupon any such Perjury is or shall be committed, as also the Justices of Assise and Gaol Delivery in their several Circuits, and the Justices of the Peace in every County within this Realm, or in Wales, at their general Quarter Sessions, both within Liberties and without, shall have full Power to inquire of all Offences committed contrary to this Act by Inquisition, Presentment, Bill, or Information, or otherwise, lawfully to hear and determine the same, and to give Judgment, Award, Process, and Execution of the same, according to the Course of the Laws of this Realm.

And by the Stat. 2 Geo. 2. c. 25. it is enacted, That, besides the Punishment already to be inflicted by Law for such great Crimes, it shall and may be lawful for the Court or Judge, before whom any Person shall be convicted of wilful and corrupt Perjury, or Subornation of Perjury, according to the Laws now in being, to order such Person to be sent to the House of Correction, within the same County, for a Time not exceeding seven Years, there to be kept to hard Labour during all the said Time, or otherwise to be transported to some of his Majesty's Plantations beyond the Seas for a Term not exceeding seven Years, as the Court shall think most proper, and thereupon Judgment shall be given, That the Person convicted shall be committed, or transported accordingly, over and beside such Punishment as shall be adjudged to be inflicted

432 *Precedents of Indictments, &c.*

on such Person, agreeable to the Laws now in being; and if Transportation be ordered, the same shall be executed in such Manner as is or shall be provided by Law for the Transportation of Felons; and if any Person so committed or transported, shall voluntarily escape or break Prison, or return from Transportation, before the Expiration of the Time for which he shall be ordered to be transported as aforesaid, such Person being thereof lawfully convicted, shall suffer Death as a Felon, without Benefit of Clergy, and shall be tried for such Felony in the County where he so escaped, or where he shall be apprehended.

This Act made perpetual by the 9 Geo. 2.

Perjury punishable upon Confession without Indictment or Information.

FOR the clear Understanding of the Stat. 5 Eliz. c. 9. it may be proper to set forth the following Case.

The King against Thorogood. Trin. 9 Geo. 1.

THE Defendant having made an Affidavit in the Court of Common Pleas, and the Truth thereof being controverted, he was ordered to appear in Court, and accordingly did appear in Easter Term last, and confessed, that he made the Affidavit, and that it was false.

Whereupon the Court recorded his Confession, and ordered, that he should be taken into Custody, and put into the Pillory for Perjury.

And now it was insisted on by his Council, That this could not be done upon his own Confession, because it is not a Conviction, but only Matter of Evidence, for he ought judicially to be brought before the Court by Indictment, and therefore his Confession ought not to have

have been recorded; besides, the Court of Common Pleas hath no Jurisdiction in criminal Cases, and therefore if it had appeared on Record, that the Defendant was perjured, that Court could not have punished him.

To argue, that a Criminal shall not be convicted on his own Confession, is *è contra.*
not only a new, but very strange Doctrine, because the Confession of a Crime is the strongest Evidence of Guilt.

It is likewise very strange to object, that the Court of Common Pleas hath no Jurisdiction in this Case, because the Punishment by Pillory is by Virtue of the Statute of 5 Eliz. c. 9. and the Court having given Sentence accordingly, shews, that they proceeded on that Statute, by which, Power is given to any Court where the Perjury is committed, to punish the Offender; so that it is plain the Court hath a Jurisdiction, especially since it is provided by that very Statute, that it shall not extend to any Ecclesiastical Court, which being a Negative pregnant, is a full Proof, that all other the King's Courts may punish such Offenders, and even those who shall be convicted by their own Confession; for the Statute gives Power to hear and determine by Inquisition, Information, Bill, Presentment, or otherwise, and to give Judgment, and award Execution, &c. Now by the Word Otherwise, the Confession of the Party may be intended: Besides, if that Court cannot punish the Defendant by Virtue of the Statute 5 Eliz. he might be punished at common Law; for Perjury is an Offence at common Law, and any Court may punish such a Criminal for an Offence committed in Facie Curie, which was the better Opinion in Bushell's Case, though Vaughan doubted it. But notwithstanding what was said by the Defendant's Council; he was put in the Pillory the last Day of Term.

Subornation of P E R J U R Y.

For endeavouring to suborn a Person to give Evidence on a Trial at the Assises.

Shropshire. **T**HE Jurors for our Lord the King upon their Oath present, That formerly, to wit, in the Term of *St. Hilary*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* in the Court of *Exchequer* of our said Lord the King (the said Court then being at *Westminster* in the County of *Middlesex*, before the Barons of the said *Exchequer* of our said Lord the King, amongst the Pleas of the said Term, on the twenty-fourth Day of *January*, in that Term, *T. G.* then a Debtor of our said Lord the King, did by *T. L.* his Attorney, implead *T. E.* present there in Court the same Day, of a Plea of *Trespas* and *Affault*, for that, to wit, that the aforesaid *T. E.* on the twenty-eighth Day of *November*, in the Year of our Lord One thousand seven hundred and sixty-one, with Force and Arms, to wit, with Swords, Staves, and Knives, upon him the said *T. G.* at *Wrexham*, in the County of *Denbigh*, did make an *Affault*, and him the said *T. G.* then and there did beat, wound, and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to him did, to the great Damage of the said *T. G.* and against the Peace of our said Lord the King; wherefore the said *T. G.* did say, that he was rendered worse and had Damage to the Value of one hundred Pounds, so that he could not satisfy our said Lord the King the Debts which he owed to our said Lord the King, at his said *Exchequer*, and thereupon he brought Suit, and so forth; and the aforesaid *T. E.* by
R. M.

R. M. his Attorney, came and defended the Force and Injury when and so forth, and said that he was not guilty of the Trespass and Assault aforesaid, and concerning that did put himself upon his Country, and the aforesaid T. G. in like Manner; whereupon it was in such wise proceeded between the Parties aforesaid, in the said Court, upon the Issue aforesaid, that afterward, to wit, on the sixteenth Day of *March*, in the said first Year of the Reign of our said now Lord the King, at *Salop*, in the County of *Salop* (being the next *English* County adjoining to the said County of *Denbigh*) before J. R. Esq; Chief Baron of the *Exchequer* of our said Lord the King, and Sir J. F. A. Kt. one of the Justices of our said Lord the King, of the Court of *Common Pleas*, then Justices of our said Lord the King assigned to take the Assises in the aforesaid County of *Salop*, by the Form of the Statute and so forth, the same Issue came to be tried by a Jury of the Country in that Behalf, taken between the said Parties (which said Issue ought to have been tried by the Men of the said County of *Salop*, as being the next *English* County adjoining to the said County of *Denbigh* as aforesaid) as by the Record thereof now remaining in the said Court of *Exchequer* at *Westminster* aforesaid, doth more fully appear. And the Jurors aforesaid, now here sworn and charged to inquire for our said Lord the King, for the Body of the said County of *Salop*, upon their Oath aforesaid, do further present, That before the Trial of the said Issue, and during the Time the same was depending, to wit, on the sixteenth Day of *March*, in the Year last above mentioned; H. the Wife of the aforesaid T. G. late of *Holliwell*, in the County of *Flint*, Grocer, not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, and minding and intending unjustly to ag-

grieve the said *T. E.* the Defendant above named, and wickedly to cause and procure the said *T. E.* to be convicted of the Trespass and Assault in the Declaration aforesaid, above specified, and to subject him to the Payment of great Sums of Money, for Damages and Costs to be recovered against him in the said Suit at *Salop* aforesaid, in the said County of *Salop*, did unlawfully and wickedly solicit, instigate, and as much as in her lay, endeavour to persuade one *M. T.* Spinster, to be and appear as a Witness on the Part and Behalf of the said *T. G.* the Plaintiff aforesaid, at the Trial of the said Issue so as aforesaid joined, and upon the same Trial falsely to swear and give in Evidence to the Jurors of the Jury of the County, of and concerning the said Assault, by the above-mentioned Declaration, supposed to have been done and committed by the said *T. E.* upon the said *T. G.* and of and concerning the Consequence of such supposed Assault, to the Purport and Effect following, that is to say, that the Face of the said *T. G.* was blue after the Blow; whereas in Truth and in Fact, the Face of the said *T. G.* was not blue, nor any Ways changed in Colour, by Reason of any Blow he had received from the said *T. E.* nor did he the said *T. E.* ever assault the said *T. G.* or give him the said *T. G.* any Blow, so as to cause the Face of the said *T. G.* thereby to become blue, or any Ways changed in Colour; but in Truth and in Fact, the said *H. G.* at the Time she so solicited, instigated, and endeavoured to persuade the said *M. T.* to swear and give in Evidence as is aforesaid, had caused the Face of the said *T. G.* to be stained with Ink, to wit, at *Salop* aforesaid, in the same County of *Salop*, and she the said *H.* did thereupon, then and there tell the said *M.* that she the said *M.* might safely swear the Face of the said *T. G.* was blue after the Blow, in Contempt of our said Lord the King and

his Laws, to the manifest Subversion of Justice, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Subornation of Perjury, by the common Law, seems to be an Offence in procuring a Man to take a false Oath amounting to Perjury, who actually takes such Oath; but it seems clear, that if the Person incited to take such an Oath do not actually take it, the Person by whom he was so incited is not guilty of Subornation; yet it is certain, that he is liable to be punished not only by Fine, but also by infamous corporal Punishment.

1 Rol. Ab. 41.
pl. 21, 57.
pl. 5, 79.
pl. 21 Yelv. 72.
Cro. Ja. 158.
Cro. Ca. 337.
2 Keb. 399.
3 Mod. 120.

By the Stat. 5 Eliz. c. 9. It is enacted, That whoever shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever, to commit any wilful or corrupt Perjury, in any Matter or Cause whatsoever depending in Suit and Variance, by any Writ, Action, Bill, Complaint, or Information, in any wise concerning any Lands, Tenements, or Hereditaments, or Goods, Chattels, Debts or Damages, in any of the King's Courts of Chancery, Whitehall, or elsewhere, within any of the King's Dominions of England or Wales, or the Marches of the same, where any Person or Persons shall have Authority by Virtue of the King's Commission, Patent, or Writ to hold Plea of Land, or to examine, hear, or determine any Title of Lands, or any Matter or Witnesses concerning the Title, Right, or Interests of Lands, or any Matter or Witnesses concerning the Title, Right, or Interests of any Lands, or Tenements, or Hereditaments, or in any of the King's Courts of Record, or in any Leet, View, or Frank Pledge, or Law Day, Ancient Demesne Court, Hundred Court, Court Baron, or in

438 **Precedents of Indictments, &c.**

the Court or Courts of the Stannery in the Counties of Devon or Cornwall, or shall unlawfully and corruptly procure or suborn any Witness or Witnesses who shall be sworn to testify in Perpetuam rei Memoriam, shall, for such Offence, being thereof lawfully convicted or attainted, forfeit the Sum of forty Pounds, and if any such Offender so being convicted, &c. shall not have Goods or Chattels, Lands or Tenements to the Value of forty Pounds, that then every such Person shall suffer Imprisonment by the Space of one half Year, without Bail or Mainprise, and stand upon the Pillory the Space of one whole Hour, in some Market-Town, next adjoining to the Place where the Offence was committed, in open Market there, or in the Market-Town itself, where the Offence was committed.

That no Person being so convicted, &c. shall from thenceforth be received as a Witness in any Court of Record, &c. till such Judgment against him shall be reversed by Attaint or otherwise, and that upon every such Reversal, the Party grieved shall recover Damages against the Party who did procure the said Judgment so reversed to be first given, &c.

Also by the same Statute, Subornation of Perjury is punishable as wilful Perjury.

And by the Stat. 2 Geo. 2. c. 25. against Forgery and Perjury, &c. (which is revived and made perpetual by Stat. 9 Geo. 2. c. 18.) the Court of King's Bench, &c. proceeding upon an Indictment or Information of Perjury, or Subornation of Perjury, at Common Law, may not only set a discretionary Fine on the Offender, but also condemn him to the Pillory, without making any Enquiry concerning the Value of his Lands or Goods. See Perjury antea.

Prosecutions for Perjury, &c. made more easy, 23 Geo. 2. c. 25. §. 2.

PIRACY.

P I R A C Y.

An Indictment for Piracy ; causing a Revolt in a Merchant's Ship, and running away with the same, and the Apparel, Tackle, and Goods.

Admiralty of **T**HE Jurors for our Lord the England. King, upon their Oath present, That *E. J.* late of *London*, Mariner, *N. W.* late of *London*, Mariner, and *L. S.* late of *London* aforesaid, Mariner, on the seventh Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, upon the high Sea, within the Jurisdiction of the Admiralty of *England*, about half a League distant from *Leghorn* in *Italy*, in Parts beyond the Seas, then being Mariners, in and on board a certain Merchant Ship called the *Dove*, belonging, and appertaining to Subjects of our said Lord the King (to the Jurors aforesaid as yet unknown) where f one *B. H.* a Subject of our said Lord the King, then and there was Master, piratically and feloniously did endeavour to make, and did make a Revolt in the same Ship (the said *B. H.* then and there being Master of the same Ship as aforesaid) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *E. J.* *N. W.* and *L. S.* on the said seventh Day of *September*, in the Year aforesaid, then being Subjects of our said Lord the King, and Mariners in the said Ship called the *Dove*, belonging and appertaining to Subjects of our said Lord the King (to

the Jurors aforesaid as yet unknown) with Force and Arms, upon the high Sea aforesaid, about half a League distant from *Leghorn* aforesaid, in and on board the said Ship called the *Dove*, whereof the said *B. H.* a Subject of our said Lord the King, then and there was Master as aforesaid, did betray the Trust in them reposed as Mariners of the same Ship, and then and there, upon the high Sea aforesaid, within the said Jurisdiction, with Force and Arms, did turn Pirates, and the same Ship, and the Apparel and Tackle thereof, of the Value of two hundred Pounds of lawful Money of *Great Britain*, and one hundred Hogsheads of Sugar, of the Value of one hundred Pounds of like lawful Money, one hundred and fifty Bales of Tobacco, of the Value of one hundred Pounds, and two Bales of Velvet, of the Value of one hundred and fifty Pounds of like lawful Money, of the Goods and Chattels of certain Subjects of our said Lord the King (to the Jurors aforesaid as yet unknown) then and there being in the said Ship, under the Care and Custody, and in the Possession of the said *B. H.* as Master of the said Ship, then and there, upon the high Sea aforesaid, within the Jurisdiction of the Admiralty aforesaid, about the Distance of half a League from *Leghorn* aforesaid, with Force and Arms, from the Care, Custody, and Possession of the said *B. H.* piratically and feloniously did steal, take, and run away with (they the said *E. J. N. W.* and *L. S.* then and there being Mariners of the said Ship, and in and on board the said Ship, on the high Sea as aforesaid) against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

Note, *The Indictment must alledge the Fact to be done upon the Sea, &c. and feloniously and piratically.*
By

By the Stat. 28 Hen. 8. c. 15. It is enacted, *That all Felonies and Robberies, &c. upon the Sea, or in a Haven, River, Creek, or Place, where the Admiral or Admirals have or pretend to have Power, Authority, or Jurisdiction, shall be inquired, tried, heard, determined, and adjudged in such Shires and Places in this Realm, as shall be limited by the King's Commission or Commissions to be directed for the same, in like Form and Condition, as if such Offence or Offences had been committed or done in or upon the Land, and such Commissions shall be had under the King's Great Seal, directed to the Admiral or Admirals, or his or their Lieutenant, Deputy and Deputies, and to three or four such other substantial Persons, as shall be named or appointed by the Lord Chancellor of England for the Time being, from Time to Time, and as oft as Need shall require, to hear and determine such Offences, after the common Course of the Laws of this Land, used for Felonies, and Robberies, &c. done and committed upon the Land within this Realm.*

And it is further enacted, by the said Statute, *That if any Person or Persons happen to be indicted for any such Offence done, or hereafter to be done, upon the Seas, or in any other Place above limited, that then such Order, Process, Judgment, and Execution, shall be used, had, done, and made to and against every such Person and Persons so being indicted, as against Felons, &c. for any Felony, &c. upon the Land, as by the Laws of this Land is accustomed.*

And it is further enacted, by the same Statute, *That such as shall be convicted of any such Offence by Verdict, Confession, or Process, by Authority of any such Commission, shall have and suffer such Pains of Death, Losses of Lands, Goods, and Chattels, as if they had been attainted and convicted of such Offence done upon the Land; and also that they shall be excluded from the Benefit of Clergy.*

And it is enacted, by the Stat. 11 & 12 W. 3. c. 7. which was made perpetual by the Stat. 6 Geo. 1. c. 19.

That

442 **Precedents of Indictments, &c.**

That all Piracies, Felonies, and Robberies committed in or upon the Sea, or in any Place where the Admiral has Jurisdiction, may be tried and determined at Sea, or upon the Land, in any of his Majesty's Islands and Plantations, &c. to be appointed by the King's Commission, under the Great Seal, or the Seal of the Admiralty, directed to any of the Admirals, &c. and such Persons and Officers by Name, or for the Time being, as his Majesty shall think fit, who shall have Power, jointly and severally, by Warrant under Hand and Seal of any of them, to commit any Person against whom Information of any such Offences shall be given upon Oath, and to call a Court of Admiralty, which shall consist of seven Persons, at the least, and shall proceed in the Trial of the said Offenders, according to such Directions as are set forth at large in the said Statute.

And it is further enacted, by the said Statute, That if any of his Majesty's natural born Subjects or Denizens of this Kingdom, shall commit any Piracy, or Robbery, or any Act of Hostility, against other his Majesty's Subjects, upon the Sea, under Colour of any Commission from any foreign Prince or State, or Pretence of Authority from any Person whatsoever, such Offender and Offenders, shall be deemed and adjudged, and taken to be Pirates, Felons, and Robbers; and they, and every of them, being duly convicted thereof, according to this Act, or the aforesaid Statute of King Henry the Eighth, shall have and suffer such Pains of Death, Loss of Lands, Goods, and Chattels, as Pirates, Felons, and Robbers upon the Seas ought to have and suffer.

And it is further enacted, by the said Statute, That if any Commander, or Master of any Ship, or any Seaman or Mariner, shall in any Place where the Admiral hath Jurisdiction, betray his Trust and turn Pirate, Enemy, or Rebel, and piratically and feloniously run away with his or their Ship or Ships,

or

or any Barge, Boat or Ordnance, Ammunition, Goods, or Merchandize, or yield them up voluntarily to any Pirate, or bring any seducing Message from any Pirate, Enemy, or Rebel, or consult, combine, or confederate with, or attempt or endeavour to corrupt any Commander, Master, Officer or Mariner, to yield up, or run away with any Ship, Goods, or Merchandize, or turn Pirate, or go over to Pirates, or if any Person shall lay violent Hands on his Commander, whereby to hinder him from fighting in Defence of his Ship and Goods committed to his Trust, or shall confine his Master, or make, or endeavour to make a Revolt in his Ship, he shall be adjudged to be a Pirate, Felon, and Robber; and being convicted thereof according to the Direction of this Act, shall have and suffer Pains of Death, Loss of Lands, Goods and Chattels, as Pirates, Felons, and Robbers upon the Seas ought to have and suffer.

And it is further enacted, by the said Statute, That all and every Person and Persons whatsoever, who shall either on the Land, or upon the Seas, wittingly or knowingly set forth any Pirate, or aid or assist, or maintain, procure, command, counsel; or advise any Person or Persons whatsoever, to do or commit any Piracies or Robberies upon the Seas, and such Person or Persons shall thereupon do and commit any such Piracy or Robbery, then all and every such Person or Persons whatsoever, so as aforesaid, setting forth any Pirate, or aiding or assisting, maintaining, procuring, commanding, counselling, or advising the same, either on Land or upon the Sea, shall be adjudged to be accessory to such Piracy and Robbery done and committed. And further, that after any Piracy or Robbery is or shall be committed by any Pirate or Robber whatsoever, every Person or Persons, who knowing that such Pirate or Robber has done or committed such Piracy and Robbery, shall, on the Land, or upon the Sea receive, entertain, or conceal any such
Pirate

444 **Precedents of Indictments, &c.**

Pirate or Robber, or receive, or take into his Custody, any Ship, Vessel, Goods or Chattels, which have been by such Pirate or Robber piratically and feloniously taken, shall be by this Statute likewise adjudged to be accessory to such Piracy and Robbery; and that all such Accessories to such Piracies and Robberies shall be enquired of, tried, heard, determined and adjudged according to the common Course of Law, according to the said Statute of 28 H. 8. as the Principals of such Piracies and Robberies may be, and no otherwise; and being thereupon attainted, shall suffer such Pains of Death, Loss of Lands, Goods and Chattels, and in like Manner as the Principals of such Piracies, Robberies and Felonies, ought to suffer according to the said Statute of 28 H. 8. which is declared to be in full Force, any thing in this Act to the contrary notwithstanding.

By the Stat. 4 Geo. 1. c. 11. All Persons who shall commit any Offence for which they ought to be adjudged Pirates, Felons, and Robbers, by the Stat. 11 & 12 W. 3. may be tried and judged for every such Offence, according to the Form of the Statute 28 H. 8. c. 15. and shall be excluded from their Clergy.

Accessaries to Piracy made Principals, 8 Geo. 1. c. 24. See 18 Geo. 2. c. 36.

P O I S O N.

Against a Servant for putting a large Quantity of Corrosive Mercury Sublimate into a Tea-Kettle of Water, with an Intent to poison her Master.

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That A. G. late of the Parish of St. Martin in the Fields,

Fields, in the County of *Middlesex*, Spinster, being a Person of a wicked Mind and Disposition, and maliciously intending to poison one *I. M.* of the said Parish of *St. Martin* in the *Fields*, in the said County of *Middlesex*, Apothecary, her Master, on the first Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, did knowingly, wilfully, and maliciously, put a large Quantity of Corrosive Mercury Sublimate (being a deadly Poison) into a Tea Kettle filled with Water (which Water, he, the said *I. M.* had, then and there immediately before, directed the said *A.* to boil, in order to make a certain Liquor, called *Tea*, for his own Drinking) and the said *A.* did, then and there knowingly, wilfully, and maliciously, boil the said Corrosive Mercury Sublimate in the said Water, and the same Water, in which the said Corrosive Mercury Sublimate was so boiled as aforesaid, did immediately afterwards, to wit, the same Day and Year, there delivered to the said *I. M.* her said Master, to use for the making of the aforesaid Liquor, called *Tea*; and the said *I. M.* not knowing the said Corrosive Mercury Sublimate to have been in the said Water, did use the same in making the said Liquor called *Tea*, and did drink a Quantity of the same, made with the said Water, wherein the said Corrosive Mercury Sublimate was so boiled as aforesaid, whereby the said *I. M.* became variously distempered in his Body, and was in extreme Danger of losing his Life, to the great Damage of the said *I. M.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For putting White Arsenick into Brandy, and giving it to a Person to drink.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *T. B.* late of the Parish of *Staines*, in the County of *Middlesex*, Yeoman, *E. S.* late of the same Yeoman, and *R. S.* late of the same Yeoman, contriving and intending to hurt and damage the Body of *A. O.* Widow, on the Twelfth Day of *April*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, wickedly, and knowingly, did mix Poison, to wit, White Arsenick, with Brandy, and the same Poison mixed with Brandy, as aforesaid, afterwards to wit, the same Day and Year abovementioned, with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully and knowingly, did give to the said *A.* to drink; and the said *A.* not knowing the said Poison to have been mixed with the Brandy as aforesaid, she, the said *A.* did, then and there drink and swallow the Poison, mixed with the Brandy, as aforesaid, by which the said *A.* of the Poison aforesaid, then and continually afterward, until the Day of the taking of this Inquisition, at the Parish aforesaid, in the County aforesaid, was, and yet is, variously distempered and weak in her Body, to the great Damage of the said *A.* and against the Peace of our said Lord the King, his Crown and Dignity.

Wilful Poisoning shall be adjudged Murder, 1 E. 6. c. 12. §. 13.

P O O R.

For bringing a poor Woman into a Parish where she had no Settlement, and where she instantly died, so that the Parish was put to Expence in burying her.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Yeoman, devising and intending the Inhabitants of the same Parish with the Maintenance of *E. C.* Spinster, unjustly to charge, on the second Day of *May*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, her the said *E. C.* then being poor and impotent, and unable to maintain herself, and then not having any legal Settlement within the same Parish, violently, unlawfully, and unjustly, and without any legal Warrant or Authority, did bring, convey, and leave, and cause and procure to be brought, conveyed, and left, in the same Parish, to be kept and maintained at the Charge of the Inhabitants of the same Parish, which said *E. C.* afterwards, and so soon as she was brought by the said *A. B.* into the said Parish as aforesaid, did there instantly die, by reason whereof the Inhabitants of the said Parish were obliged to expend, and did expend, the Sum of five Shillings of lawful Money of *Great Britain*, in and about the Burial of the said *E. C.* to the great Damage of the said Inhabitants, and to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For

For Lodging an Inmate, who was delivered of a Bastard Child which became chargeable to the Parish.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *E. D.* late of the Parish of *St. Andrew, Holburn*, in the County of *Middlesex*, Widow, on the fourteenth Day of *December*, in the first Year of the Reign of our Sovereign Lord *George the Third*, King of *Great Britain, France, and Ireland*, Defender of the Faith, devising and intending the Inhabitants of the Liberty above the Bars, in the same Parish and County, with the Maintenance of one *M. R.* and of a certain Bastard Child, with which the said *M.* was then pregnant, unjustly to charge and burthen, she the said *E.* on the same Day and Year, at the Parish aforesaid, in the County aforesaid, to wit, in the same Liberty, in the Dwelling House of her the said *E.* there situate, unlawfully did receive and lodge, as an Inmate, the said *M. R.* so being pregnant with a Bastard Child as aforesaid, and also being poor and unable to maintain herself, and not having any legal Settlement in the said Liberty; and that she the said *E.* her, the said *M.* an Inmate, in the same Dwelling-House, in the Liberty aforesaid, in the same Parish and County, from the said fourteenth Day of *December*, in the Year aforesaid, until the fifteenth Day of *February*, in the Year aforesaid, unlawfully did continue, during which Time, to wit, on the twenty-ninth Day of *December*, in the Year aforesaid, the said *M.* at the Liberty aforesaid, in the same Parish and County aforesaid, did bring forth a Male Bastard Child, and the Inhabitants of the same Liberty, have, during the Time aforesaid, been thereby compelled to expend divers Sums

Sums of Money, amounting in the Whole to the Sum of four Pounds, ten Shillings, in Relief and Maintenance of the said *M.* and her Bastard Child, to the great Damage of the Inhabitants of the said Liberty, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

For Lodging a poor Person, who became a Charge to the Parish.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *E. C.* late of the Parish of *St. George the Martyr*, in the County of *Middlesex*, Widow, on the sixth Day of *May*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, in the Dwelling-House of her the said *E. C.* there situate, unlawfully did receive and lodge one *S. G.* an Inmate (the said *S. G.* then being poor and unable to maintain herself, and then not having any legal Settlement in the said Parish) and that she, the said *E. C.* her, the said *S. G.* an Inmate in the same Dwelling-House, in the Parish aforesaid, in the County aforesaid, from the first Day of *October*, in the Year aforesaid, until the first Day of *January* then next following, unlawfully did continue, whereby the said Parish was obliged and compelled to expend, and lay out divers great Sums of Money, to wit, the Sum of forty Shillings for Relief and Maintenance of the said *S. G.* to the great Damage of the Inhabitants of the same Parish, and against the Peace of our said Lord the King, his Crown and Dignity.

P R I S O N.

For assisting a Prisoner to escape out of Prison, charged with a Forfeiture to the King, upon a Writ issued out of the Exchequer.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, that heretofore, to wit, on the twentieth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* there issued out of the Court of *Exchequer* of our Lord the King (the said Court then being at *Westminster*, in the County of *Middlesex*) a certain Writ of our said Lord the King, directed to his then Sheriff of his County of *Surry*, by which said Writ our said Lord the King commanded the said Sheriff that he should not omit by Reason of any Liberty, but enter the same, and take *J. R.* by his Body, wherefoever he the said Sheriff should find him within his Bailiwick, and him safely and securely keep, so that he the said Sheriff might have his Body before the Barons of the *Exchequer* of our said Lord the King at *Westminster*, on the twenty-ninth Day of *November*, then following, to answer to our said Lord the King concerning certain Articles whereof he was impeached, on a certain Information, exhibited before the said Barons of our said Lord the King by his Attorney General, for a Forfeiture of two thousand three hundred thirty and two Pounds, for an Offence in the Information aforesaid mentioned, and further to do and receive in the Premises, what the said Court then and there should see fit to order, and that the said Sheriff should have then and there that Writ; and the said

Writ afterwards, and before the Return of the same Writ, to wit, on the twenty-fourth Day of the same Month of *November*, in the Year aforesaid, at the Parish of *St. George, Southwark*, in the said County of *Surry*, was delivered to *P. L.*, Esq; then Sheriff of the County of *Surry* aforesaid, in due Form of Law to be executed, by Virtue of which said Writ, he, the aforesaid *J. R.* was then and there taken and imprisoned by him the said Sheriff, in the Goal of our said Lord the King, commonly called the *New Goal* in *Southwark*, situate in the Parish of *St. George, Southwark*, aforesaid, in the County of *Surry* aforesaid, to answer to our said Lord the King, of and concerning the Premises in the said Writ above specified: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *J. R.* being so in the said Goal in Custody as aforesaid, for the Cause aforesaid, one *R. W.* late of the Parish of *St. George, Southwark*, aforesaid, in the said County of *Surry*, Blacksmith, well knowing the Premises, but being a Person of an evil Mind and wicked Disposition, and contriving and intending to procure the Escape of him the said *J. R.* out of the said Goal, afterward, to wit, on the sixth Day of *December*, in the first Year of the Reign of our said Lord the King, at the Parish and County last above-mentioned, with Force and Arms, unlawfully, knowingly, and advisedly, did bring, and cause to be brought, and delivered to the said *J. R.* (then and there being in the Goal aforesaid, in the Custody of *R. T.* Esq; then Sheriff of the said County of *Surry*, in whose Custody he had been before that Time delivered in due Form of Law for

*Defendant's
Name and Ad-
dition.*

*The Day and
Year the Offence
was committed.*

*The Name of the
Sheriff when the
Offence was com-
mitted.*

the Cause in the Writ above specified) one Rope and two Iron Hooks, to the Intent and Purpose, that the said *J. R.* might and should thereby be enabled to make his Escape out of the said Goal: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That, pursuant to the Contrivance and Intention of the said *R. W.* and by Means of the said Rope and Hooks, and by Procurement of the said *R. W.* he, the said *J. R.* afterward, to wit, on the same Day and Year last above mentioned, at the same Parish and County, then and there being in the Custody of the Sheriff last named, in the said Goal, for the Cause in the Writ above specified, with Force and Arms, against the Will, and without the Licence and Consent of the last named Sheriff, and of the then Goaler of the said Goal, unlawfully and voluntarily did escape, and go at large, out of the said Goal, from the Custody of the said *R. T.* then Sheriff of the said County of *Surry*: And the Jurors aforesaid, upon their Oath aforesaid, do further present,

Add such a General Count.

That the said *R. W.* on the said sixth Day of *December*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish and County last above-mentioned, wilfully, advisedly, and unlawfully, and against the Will and Consent of the said then Sheriff of the said County of *Surry*, and against the Will, and without the Licence and Consent of the then Goaler of the said Goal of our said Lord the King, of his said County of *Surry*, did aid, abet, comfort and assist, the said *J. R.* so being in the said Goal as aforesaid, for the Cause aforesaid, in making his Escape from the said Goal and Custody of the said last named Sheriff, in Contempt of our said Lord the King, and his Laws, to the evil Example of all others in
the

the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

Whoever breaks, or escapes, or assists another to break or escape from any lawful Imprisonment, is punishable as for a High Mis-prison, by Fine and Imprisonment ; and every Indictment against Offenders of that Sort, must specially set forth his Case in such a Manner, that it may appear he was lawfully in Prison, and it is not sufficient to say in general, that he broke or escaped, or that he assisted in the Breaking or Escaping of the Party imprisoned.

By the Stat. 16 Geo. 2. c. 31. If any Person shall by any Means whatsoever be aiding or assisting to any Prisoner to attempt to make his Escape from any Goal, although no Escape be actually made, in case such Prisoner then was attainted or convicted of Treason, or any Felony, except petty Larceny, or lawfully committed to or detained in any Goal for Treason, or any Felony, except petty Larceny, expressed in the Warrant of Conviction or Detainer, every Person so offending, and being thereof lawfully convicted, shall be deemed and adjudged guilty of Felony, and shall be transported for seven Years ; and in case such Prisoner was then convicted of, committed to, or detained in any Goal for Petty Larceny, or any other Crime, not being Treason or Felony, expressed in the Warrant of Commitment or Detainer as aforesaid, or then was in Goal upon any Process whatever for any Debt, &c. amounting to 100 l. every Person so offending, and being thereof convicted, shall be deemed guilty of a Misdemeanor, for which he shall be liable to be fined and imprisoned.

And if any Person shall convey, or cause to be conveyed into any Goal, any Vizor or other Disguise, or any Instrument, or Arms proper to facilitate the Escape of Prisoners ; and the same shall deliver or

454 *Precedents of Indictments, &c.*

cause to be delivered to any Prisoner in any such Goal, or to any other Person there, for the Use of any such Prisoner, without the Consent or Privity of the Keeper of such Goal; every such Person, altho' no Escape, or Attempt to escape be actually made, shall be deemed to have delivered such Vizer, &c. with an Intent to aid and assist such Prisoners to escape or attempt to escape; and in case such Prisoner then was attainted or convicted of Treason, or any Felony, except petty Larceny, or lawfully committed to or detained in any Goal for Treason, or any Felony, except petty Larceny, expressed in the Warrant, every Person so offending, and being thereof convicted, shall be transported for seven Years: But in case the Prisoner, to whom, or for whose Use such Vizer, &c. shall be so delivered than was convicted, committed, or detained for petty Larceny, or any other Crime, not being Treason, or Felony, expressed in the Warrant, or upon any Process for any Debt, &c. amounting to 100 l. every such Person so offending, and being thereof convicted, shall be deemed guilty of a Misdemeanor, for which he shall be liable to a Fine and Imprisonment.

And if any Person shall aid or assist any Prisoner to attempt to make his Escape from any Constable, Headborough, Tythingman, or other Officer or Person who shall then have the lawful Charge of such Prisoner, in order to carry him to Goal by Virtue of a Warrant for Treason, or any Felony, except petty Larceny, expressed in such Warrant; or if any Person shall be aiding or assisting to any Felon, to attempt to make his Escape from on board any Boat, Ship, or Vessel carrying Felons for Transportation, or from the Contractor for the Transportation of such Felons, his Assigns, or Agents, or any other Person to whom such Felon shall have been lawfully delivered, in order for Transportation; then every Person so offending,
and

and being convicted thereof, shall be deemed guilty of Felony, and shall be transported for seven Years.

There shall be no Prosecution for any of the said Offences, unless it be commenced within one Year after such Offence was committed.

R A P E.

An Indictment for Ravishing a Woman.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of St. George, Hanover-Square, in the County of *Middlesex*, Gentleman, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the fourth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish of St. Martin in the Fields, in the County of *Middlesex* aforesaid, in and upon one *A. P.* Spinster, in the Peace of God, and our said Lord the King, then and there being, violently and feloniously did make an Assault, and her the said *A. P.* against the Will of her the said *A.* then and there feloniously did ravish and carnally know, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

Rape was a Felony at common Law; then by the Stat. Westm. 1. c. 13. made but a Misdemeanor; then by the Stat. of Westm. 2. c. 34. made Felony again; and by the Stat. 18 Eliz. c. 7. Clergy is taken away upon Conviction, Verdict, Confession, or Outlawry.

And for the plain Declaration of Law, it is enacted, That if any Person shall unlawfully and car-

456 *Precedents of Indictments, &c.*

nally know, and abuse any Woman, Child, under the Age of ten Years, every such unlawful and carnal Knowledge, shall be Felony, and the Offender thereof being duly convicted, shall suffer as a Felon, without Allowance of Clergy.

So that if the Party ravished be under the Years of ten, you must set forth her Age, and say in the Indictment, instead of the Words (against her Will, did feloniously ravish, and carnally know) did unlawfully and feloniously know and abuse, because it is Felony within the Meaning of the Statute, whether she consented or not, being under the Age of ten Years; and if the Woman be above ten, if she does not consent at the Time of committing the Fact, it is a Rape though she should consent afterwards.

It is no Mitigation, to shew that a Woman yielded to the Violence, if her Consent was forced by Fear of Death or Duress, nor if she consented after the Fact, it is no Excuse.

It is a great Presumption of a Woman's Consent, if she made no Complaint in a reasonable Time after the Fact.

There must be some Degree of Penetration, and also of Emission, to amount to a Rape, but an Emission is *primâ facie*, an Evidence of Penetration.

Q. If a Woman conceives, can it be adjudged against her Consent; though there are Opinions, that it seems very questionable, not only because the previous Violence is no way extenuated by a subsequent Consent, but also, because that if it was necessary to shew, that the Woman did not conceive, the Offender could not be tried till such Time that it might appear whether she did or not.

Note, All who are present, and actually assisting to commit a Rape, may be indicted as principal Offenders, whether they be Men or Women.

R E S C U E.

R E S C U E.

From a Marshal's-Court Officer.

Surry. **T**HE Jurors, &c. That on the nineteenth Day of *January*, in the seventh Year, &c. of our said Lord the King, by his Writ issued out of the Court of our said Lord the King of his Palace of *Westminster*, under the Seal of the said Court, bearing Date the same Day and Year, directed to the Bearers of the Verges of the Household of our said Lord the King, Officers and Ministers of the Court of our said Lord the King of his Palace of *Westminster*, and every of them, did command them, and *Recital of the Writ.* every of them, that they should take or one of them should take by their Bodies, *R. A.* and *W. C.* if they should be found within the Jurisdiction of the Court aforesaid, and them safely keep, so that they might have or one of them might have their Bodies before the Judges of the Court aforesaid, at the then next Court of the Palace of our said Lord the King, of *Westminster* aforesaid, on *Friday* the twenty-sixth Day of *January* then next following, to be holden at *Southwark* in the County of *Surry*, to answer to *T. W.* of a Plea of Trespass upon the Case, to the Damage of ninety-nine Shillings: Which same Writ afterwards, and before the Return of the same, to wit, on the twenty-fifth Day of *January*, in the Year aforesaid, at the Parish of _____ in the County of _____ within the Jurisdiction of the Court aforesaid, was delivered to one *G. N.* then one of the Bearers of the Verges of our said Lord the King, Officers and Ministers of the said Court of our said Lord the King, to be executed in Form of
of

458 **Precedents of Indictments, &c.**

of Law; by Virtue of which same Writ, the said *G. N.* afterwards, and before the Return of the same Writ, to wit, on the same twenty-fifth Day of *January*, in the Year aforesaid, at the Parish of _____ in the County of _____ and within the Jurisdiction of the Court aforesaid, did take and arrest the Body of *R. A.* in the Writ aforesaid named, and him the said *R. A.* in his Custody by Virtue of the said Writ then and there had; and that the said *R. A.* late of the Parish aforesaid, in the County aforesaid, Yeoman, and *C. D.* late of the same, Blacksmith; afterwards, to wit, on the said twenty-fifth Day of *January*, in Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *G. N.* then and there as aforesaid, being one of the Bearers of the Verges of the Household of our said Lord the King, Officers and Ministers of the Court aforesaid, and in the Peace of God and our said Lord the King, and in the Execution of his said Office then and there being, did make an Assault, and him the said *G. N.* then and there did beat, wound, and ill-treat, so that of his Life it was greatly dispaired; and that the said *C. D.* him the said *R. A.* out of the Custody of the said *G. N.* and against the Will of the said *G. N.* then and there, with Force and Arms, unlawfully did rescue and put him at large to go where he would; and that the said *R. A.* himself, out of the Custody of the said *G. N.* and against the Will of the said *G. N.* then and there, with Force and Arms, unlawfully did rescue and escape at large, where he would go, in Contempt of our said Lord the King and his Laws, to the great Damage of the said *G. N.* to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity. *It will not*

not be improper in this Case to lay another Count for a common Assault.

For rescuing a Person taken by Virtue of a Bill of Middlesex.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the twelfth Day of *February*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. a certain Precept, commonly called a Bill of *Middlesex*, was issued out of the Court of our said Lord the King before our said Lord the King (the same Court being holden at *Westminster* in the County of *Middlesex*) by which it was commanded, the Sheriff of *Middlesex*, that he should take *H. O.* and *J. D.* if, and so forth, and them safely, and so forth, so that he might have their Bodies before our said Lord the King at *Westminster*, on the *Wednesday* next after fifteen Days of *Easter*, to answer to *B. H.* of a Plea of Trespass, and also to the Bill of him the said *B.* to be exhibited against the aforesaid *H.* for thirty Pounds, upon Promise, according to the Custom of the said Court; which same Precept afterwards, and before the Return of the same Precept, to wit, on the twentieth Day of *February*, in the Year aforesaid, at the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex* aforesaid, was delivered to *R. A.* Esq; and Sir *H. H.* Kt. Sheriff of the County aforesaid, in Form of Law to be executed; which said *R. A.* and *H. H.* Sheriff of the County aforesaid, by Virtue of the Precept aforesaid, afterwards, and before the Return of the same Precept, to wit, on the said twentieth Day of *February*, in the Year aforesaid, did make a certain Warrant of him the said Sheriff, under his Seal directed to

460 **Precedents of Indictments, &c.**

to *J. D.* *J. D.* and *R. R.* his Bailiffs, of the Hundred of *Ossulston*, in the County aforesaid, by which he commanded them, and every of them, jointly and severally, that they should take, or one of them should take the said *H. O.* in the Precept above named, to answer to the said *B. H.* of a Plea of Trespass aforesaid, and that the said *J. D.* in the Warrant aforesaid named, afterward, and before the Return of the Precept aforesaid, to wit, the twenty-eighth Day of *February*, in the Year aforesaid, by Virtue of the Precept and Warrant aforesaid, at the Parish of *Fulham*, within the Hundred aforesaid, in the County aforesaid, did take and arrest the said *H. O.* in the Precept aforesaid, above mentioned, according to the Command of the Precept and Warrant aforesaid, upon which the said *H. O.* late of the said Parish of *Fulham*, in the County aforesaid, Yeoman, *J. F.* late of the same, Yeoman, and *M. W.* late of the same, Spinster, afterwards, to wit, on the said twenty-eighth Day of *February*, in the Year aforesaid, with Force and Arms, at the Parish of *Fulham* aforesaid, in the County aforesaid, in and upon the said *J. D.* then being one of the Bailiffs of the said Sheriff of the County aforesaid, of the Hundred of *Ossulston* aforesaid, and in the due Execution of the Precept and Warrant aforesaid, and in the Peace of God and our said Lord the King, then and there being, did make an Assault, and him the said *J. D.* then and there did beat, wound, and ill-treat, so that his Life was greatly despaired of; and that the said *J. F.* and *M. W.* him the said *H. O.* out of the Custody, and against the Will of the said *J. D.* then and there unlawfully did rescue and put at large to go where he would, and that the said *H. O.* himself out of the Custody, and against the Will of the said *J. D.* then and there unlawfully did rescue and escape at large, where he would go,

to the great Damage of the said *J. D.* and against the Peace of our said Lord the King, his Crown and Dignity. *Lay another Count for a common Assault.*

For Rescuing Goods distrained for Rent.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the second Day of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* one *M. P.* of the Parish of *St. Andrew, Holbourn*, in the County of *Middlesex*, Pastry Cook, in due Form of Law, did take and distrain one Walnut-tree Chest of Drawers, of the Value of twenty Shillings, and one Feather Bed, of the Value of forty-three Shillings, of the Goods and Chattels of one *A. H.* Widow, then being in a certain Lodging-Room in the Dwelling-House of the said *M. P.* situate in the Parish and County aforesaid, which same Distress was taken by him the said *M.* for the Sum of three Pounds and ten Shillings, being then due for Rent, for one whole Year, in Arrear from the said *A. H.* to him the said *M. P.* for the Lodging aforesaid; and that the said *M. P.* the said Goods and Chattels then and there had and detained in his Custody; and the Jurors aforesaid, upon their Oath aforesaid, do further present, That *A. W.* late of the said Parish of *St. Andrew, Holbourn*, in the said County of *Middlesex*, Yeoman, afterwards, to wit, on the said second Day of *December*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, the said Goods and Chattels, so as aforesaid, by him the said *M. P.* taken and distrained, and in the Custody of the said *M. P.* then being from and out of the Custody, and against
the

462 Precedents of Indictments, &c.

the Will of him the said *M.* then and there unlawfully and injuriously did rescue, take, and carry away, (the said Sum of three Pounds and ten Shillings, for the said Rent in Arrear, as aforesaid due, nor any Part thereof then being paid) and other Wrongs to the said *M.* then and there did, to the great Damage of the said *M.* and against the Peace of our said Lord the King, his Crown and Dignity.

Rescue is where a Person arrested, upon any legal Process, is forcibly taken out of the Custody of him who arrested him. It also extends to Distress taken away, and there must be a Distress, or an Arrest, or there cannot be a Rescous.

The Sberiff cannot return a Rescous of a Person arrested, made upon a special Bailiff not known, it ought to be on a Sberiff's known Bailiff; and if the Writ upon which the Defendant is arrested be naught, and a Rescous is made, there is no Remedy against the Rescuers. In other Cases they may be indicted, or Actions brought against them; but if an Indictment of Rescous, the Place where, and Time when, the Rescous was made, &c. be not expressed, it is not good for the Incertainty. The Plaintiff, at whose Suit an Arrest is made upon Mesne Process, may have his Action against the Rescuers, and cannot bring it against the Sberiff; but where a Person is rescued, taken upon a Ca. Sa. Action lies for the Plaintiff, as well against the Rescuers, as the Sberiff. On an Action for Escape on Mesne Process, if the Sberiff plead a Rescue, it shall be good; but not upon an Execution, where the Sberiff may raise the Posse Comitatus to secure the Prisoner or Goods.

2 Lill. 468.

2 Lev. 26.

Trin. 23 Car.

B. R.

Cro. Jac. 486.

Cro. Jac. 109.

2 Lev. 144.

3 Lev. 46.

Cro. Jac. 49.

When

When a Bailiff hath a Warrant to arrest a Man, and is hindered in executing it by another; if the Party be not actually arrested, it cannot be a Rescous: And it hath been doubtful, whether an Arrest is lawful, if by the Bailiff's Servant, and not in his Presence.

Mod. Caf. 211.

5 Mod. 216.

As to Rescues of Distresses; if any Distress is taken without Cause, as where there

is no Rent due, or any Thing is distrained that is not distrainable, where

1 Inst. 47.

one distrains in the Highway, &c. Rescous may be made, and justifiable; but if the Distress be made upon good Cause, the Owner cannot rescue it; and though the Distress be without Cause, if impounded, he may not break into the Pound, to rescue the Distress. If

Cattle distrained, on driving to the

Pound, happen to go into the House

1 Inst. 161.

of the Owner, and the Owner do not

deliver them, it is a Rescous in Law. Where the Owner of Cattle tenders his Rent be-

fore Distress, and Distress is taken af-

1 Inst. 160.

terwards, it is wrongfully taken, and

the Tenant may make Rescous; but

if he tenders after Distress it is other-

2 Inst. 107.

wise.

The unlawful Rescous of Goods dis-

2 W. & M. c. 5.

trained, and Pound Breaches, incur

treble Damages, recoverable by the Statute on Action

of the Case: But where Distress is taken, and no

Rent due, double Value of the Goods may be recovered

by the Owner, &c. See antea, p. 122.

Rescuing a Felon arrested for Felony, is Felony.

H. P. C.

See Stat. 16 Geo. 2. c. 31. Stra. 1226.

R I O T.

An Indictment for a Riot and Assault.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *F. C.* late of the Parish of *Croydon*, in the County of *Surry*, Yeoman; *T. H.* late of the same, Yeoman; *A. H.* late of the same, Yeoman; and divers other Persons (to the Jurors aforesaid as yet unknown) on the fifteenth Day of *June*, in the first Year of our Sovereign Lord *George* the Third, now King of *Great Britain, France, and Ireland*, Defender of the Faith, with Force and Arms, at the Parish aforesaid, in the County aforesaid, did unlawfully, riotously, and routously assemble and gather together, to disturb the Peace of our said Lord the King; and so being then and there assembled and gathered together, in and upon one *S.* the Wife of *W. H.* in the Peace of God, and our said Lord the King, then and there being, unlawfully, riotously, did make an Assault, and her the said *S.* then and there unlawfully, riotously, and routously did beat, wound, and ill-treat, so that of her Life it was greatly despaired, and other Wrongs to the said *S.* then and there unlawfully, riotously, and routously did, to the great Damage of the said *S.* and against the Peace of our said Lord the King his Crown and Dignity: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *F. C.* *T. H.* and *A. H.* on the said fifteenth Day of *June*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon the said *S. H.* in the Peace of God and our said Lord the King, then and there being, did make an Assault, and her the said *S.*

S. then and there did beat, wound, and ill-treat, so that of her Life it was greatly despaired, and other Wrongs to the said S. then and there did, to the great Damage of the said S. and against the Peace of our said Lord the King, his Crown and Dignity.

For a Riot committed by several Footmen at Drury-Lane Play-house, when their Royal Highnesses the Prince and Princess of Wales were there:

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That J. S. late of the Parish of *St. Martin in the Fields*, in the County of *Middlesex*, Labourer, and J. R. late of the same, Labourer, together with fifty other Persons, to the Jurors aforesaid as yet unknown, being Rioters, Routers, and Disturbers of the Peace of our said Lord the King, on the fifth Day of *March*, in in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, &c.* with Force and Arms, that is to say, with Sticks, Staves, and other offensive Weapons, at the Parish aforesaid, in the County aforesaid, unlawfully, riotously, and routously, did assemble and gather together, to disturb the Peace of our said Lord the King, and being so assembled and gathered together, ten Lamps and two Doors belonging to *C. F. Esq;* then and there being in a certain Building of him the said *C.* called *Drury-Lane Play-house*, then and there unlawfully, riotously, and routously did break and destroy, (their Royal Highnesses the Prince and Princess of *Wales* then and there being in the said Play-House) and other Wrongs to the said *C.* then and there un-

H h

lawfully,

lawfully, riotously, and routously did, to the great Damage of the said C. and against the Peace of our said Lord the King, his Crown and Dignity: And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said J. S. and J. R. together with fifty other Persons, to the Jurors aforesaid as yet unknown, on the said fifth Day of *March*, in the Year aforesaid, with Force and Arms, that is to say, with Sticks, Staves, and other offensive Weapons, at the Parish aforesaid, in the County aforesaid, unlawfully, riotously, and routously, did assemble and gather together, to disturb the Peace of our said Lord the King; and being so assembled and gathered together, did then and there unlawfully, riotously, and routously remain and continue armed as aforesaid, in a tumultuous Manner, for the Space of half an Hour, to the great Disturbance and Terror of divers of his Majesty's Subjects, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said J. S. and J. R. together with fifty other Persons, to the Jurors aforesaid as yet unknown, on the said fifth Day of *March*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, riotously, and routously did assemble and meet together, to disturb the Peace of our said Lord the King; and being so assembled and met together, in and upon one G. B. in the Peace of God and our said Lord the King, then and there being, unlawfully, riotously, and routously did make an Assault, and him the said G. B. then and there unlawfully, riotously and routously did beat, wound, and ill-treat, so that of his Life it was greatly despaired, and other Wrongs to the said G. B. then and there unlawfully, riotously, and routously did, to
the

the great Damage of the said *G. B.* and against the Peace of our said Lord the King, his Crown and Dignity.

For a Riot, and endeavouring to rescue two Persons apprehended for cutting down Turn-pikes.

Herefordshire. **T**HE Jurors for our Lord the King, upon their Oath present, That *E. W.* late of *Ledbury*, in the County of *Hereford*, Spinster, together with *J. B.* *T. R.* and several other Persons, to the Number of twenty Persons and more (to the Jurors aforesaid) yet unknown, on the fourth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at *Ledbury* aforesaid, in the County aforesaid, did unlawfully, riotously, and routously assemble and gather together to disturb the Peace of our said Lord the King, and being then and there so assembled and gathered together, were armed with Axes, Hatchets, and other Instruments, with an Intent to cut down and destroy a certain Turnpike, then and there lately before, to wit, on the second Day of *September*, in the Year of our Lord One thousand seven hundred and sixty-one, erected by Authority of a certain Act of Parliament in that Case made and provided, and intituled, *An Act for repairing the several Roads leading from the Town of Ledbury, in the County of Hereford, to the several Places therein mentioned.* And that the said *J. B.* and *T. R.* afterwards, to wit, on the same Day and Year first above mentioned, at *Ledbury* aforesaid, in the County aforesaid, were lawfully taken and apprehended for the Offences aforesaid, and then and there were conveyed before

468 **Precedents of Indictments, &c.**

J. S. Esq; then one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Hereford* aforesaid, and also to hear and determine divers Felonies, Trespasses, and other Misdemeanors committed in the same County, to be examined touching the Premises, and further to be dealt with according to Law, and were duly kept and detained in Custody at the Dwelling-House of the said J. S. situate in *Ledbury* aforesaid, for that Purpose; and that the said J. B. and T. R. so being in Custody for the Offences aforesaid, the said E. W. afterwards, to wit, the same Day and Year above mentioned, at *Ledbury* aforesaid, in the County aforesaid, together with the several other Persons (to the Jurors aforesaid) yet unknown, the Dwelling-House of the said J. S. there situate, unlawfully, riotously and routously did attack and beset, and that the said E. W. did then and there advise, persuade, and encourage the said other Persons (to the Jurors aforesaid) yet unknown, to discharge and shoot off several Guns to and against the said Dwelling-House of the said J. S. and by such Advice, Persuasion, and Encouragement of the said E. W. the said other Persons (to the Jurors aforesaid) yet unknown, then and there did discharge, and shoot off several Guns against the said Dwelling-House of the said J. S. with an Intent forcibly to rescue the said J. B. and T. R. so as aforesaid being in Custody for the Causes before-mentioned, in Contempt of our said Lord the King and his Laws, to the great Damage of the said J. S. and against the Peace of our said Lord the King, his Crown and Dignity.

1 Ventr. 251.

Salk. 594.

Dalt. 85, 86, 87.

A Riot seems to be a tumultuous Disturbance of the Peace, by three Persons or more, assembling together of their own Authority, with an Intent mutually to assist

assist each other, against any who shall oppose them in the Execution of some Enterprize of a private Nature, and afterwards actually executing the same in a violent and turbulent Manner, to the Terror of the People, whether the Act intended were of itself lawful or unlawful.

There must be three Persons at least 2 Lill. 489.
 to make a Riot; and two Persons only
 cannot be guilty of a Riot. If divers Persons assemble
 together in a peaceable Manner, and after assembled,
 do some riotous Act, this is a riotous assembling; al-
 though they did not at first assemble Dalt. 322.
 in a riotous Manner. But Assemblies
 for Wrestling, playing at Cudgels, Dancing, &c. are
 not riotous. There must be an Intention of Force or
 Violence, relating to a private Quarrel, to make a
 Riot. And if the Intention be to re- 2 Inst. 9. 10.
 dress publick Grievances, and be exe- Dalt. 322.
 cuted, it is adjudged levying War
 against the King, and Treason. If Persons on a law-
 ful Meeting, fall out upon some sudden Quarrel, there
 being no Intention of an unlawful Act, it is no Riot.
 Where many People are assembled lawfully, without
 any ill Intent, and an Affray hap- 2 Salk. 595.
 pens, none are guilty but those actu-
 ally concerned in it; but if unlawfully assembled, then
 the Act of one may be imputed to all: If one in
 Company is beaten by the Rest, it is no Riot; but it
 is otherwise of a Stranger. Persons 6 Mod. 43.
 innocently met, after Confederate to- 1 Hawk. P. C.
 gether with Intent to break the Peace, 156, 157.
 they may be guilty of a Riot: But the doing an un-
 lawful Act is not Riotous, except there be a Distur-
 bance of the Peace. If a Man seeing others engaged
 in a Riot, join with and assist them, he is as much a
 Rioter as if he at first assembled for that Intention.
 Any Person may assemble a Number of Men, to defend
 his House against Injury, and to remove a Nuisance,
 H h 3 &c.

470 Precedents of Indictments, &c.

&c. in a peaceable Manner ; but if the Persons use any threatening Words, it will amount to a Riot.

Women it is said may be punished as Rioters ; but Infants under the Age of Fourteen, are not punishable.

Dalt. 204. 326. At Common Law Riots are punished by Fine and Imprisonment, and by Pillory if enormous.

By Statute, Justices of the Peace, with the Sheriffs of Counties, &c. have Power to suppress Riots ; and arrest and imprison Rioters. They are to make Inquiry by a Jury, and record and certify their Proceedings. The Lord Chancellor may send forth a Capias to take and arrest the Parties, &c. on a Bill of Complaint for any Riot testified under the Seals of two Justices of the Peace, and the Sheriff ; and on Default of Justices enquiring, the King's Commission shall go out to inquire by sufficient Men of the County. Heinous Rioters are to suffer one Year's Imprisonment. See of other Riots, Tit. Felony, &c. under their proper Heads.

An Indictment for a Riot, by above the Number of twelve Persons, not dispersing, but remaining an Hour after Proclamation read.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, Labourer, *E. D.* late of the same, Baker, *F. G.* late of the same, Blacksmith, *H. J.* late of the same, Weaver, and divers other Persons to the Number of twelve and more, to the Jurors aforesaid as yet unknown, after the last Day of *July*, in the Year of our Lord One thousand seven hundred and sixty-one, to wit, on the sixteenth Day of *March*, in the second Year of the

the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, riotously, tumultuously, and feloniously did assemble and meet together, to the Disturbance of the publick Peace; and that afterwards, to wit, on the said sixteenth Day of *March*, in the said second Year of the Reign of our said now Lord the King, at the Parish aforesaid, in the County aforesaid, *T. D.* Esq; then one of the Justices of our said Lord the King, assigned to keep the Peace in the County of *Middlesex* aforesaid, and also to hear and determine divers Felonies, Trespases, and other Misdeeds committed in the same County, did then and there come as near as he safely could to the said *A. B. E. D. F. G. H. J.* and the said divers other Persons, to the Number of twelve and more, to the Jurors aforesaid as yet unknown, being then and there so assembled, to the Disturbance of the publick Peace as aforesaid, and with a loud Voice, he the said *T. D.* did then and there command, and cause to be commanded, Silence to be while Proclamation was making; and the said *T. D.* after that did then and there openly, and with a loud Voice, make Proclamation (according to the Form of the Statute in such Case made and provided) in these Words following, that is to say,

Our Sovereign Lord the King chargeth and commandeth all Persons, being assembled, immediately to disperse themselves, and peaceably to depart to their Habitations, or to their lawful Business, upon Pains contained in the Act, made in the first Year of King George, for preventing Tumults and riotous Assemblies. God save the King. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A. B. E. D. F. G. H. J.* and the said divers other Persons, to the Number of twelve and more,

The Proclamation recited.

472 **Precedents of Indictments, &c.**

to the Jurors aforesaid as yet unknown, afterwards, to wit, on the said sixteenth Day of *March*, in the said second Year of the Reign of our said now Lord the King, with Force and Arms, at the Parish of *St. Giles* in the *Fields* aforesaid, in the County aforesaid (notwithstanding the said Proclamation was so openly made as aforesaid) did then and there feloniously, riotously, and tumultuously, to the Disturbance of the public Peace, remain and continue by the Space of one Hour after such Command made by the Proclamation so as aforesaid, against the Form of the Statute in such Case made and provided, in Contempt of our said now Lord the King and his Laws, to the evil Example of all others in like Case offending, to the great Disturbance and Terror of the quiet and peaceable Subjects of our said now Lord the King, and against the Peace of our said now Lord the King, his Crown and Dignity.

*By the Stat. 1 Geo. 1. Stat. 2. c. 5. If any Persons to the Number of twelve or more, being unlawfully, riotously, and tumultuously assembled together, to the disturbance of the public Peace, at any Time after the last Day of July, in the Year of our Lord One thousand seven hundred and fifteen, and being commanded by any one or more Justices, or Justice of the Peace of the County, Sheriff, or Under Sheriff, Mayor, Bailiff, &c. where such Assembly shall be, by Proclamation to be made in the King's Name, in Form herein directed * to disperse themselves, &c. shall, to the Number of twelve or more (notwithstanding such Proclamation made) unlawfully, riotously, and tumultuously remain, or continue together, by the Space of one Hour, after such Command, they shall be adjudged*

* *Vide the Form recited in the Indictment last above.*

Felons,

Opini

Felons, without Benefit of Clergy, and suffer Death as in Case of Felony, without Benefit of Clergy.

And 'tis further enacted, *That the Justice, &c. or other Person authorised by this Act, shall, among the said Rioters, or as near them as he safely can come, with a loud Voice command, or cause to be commanded, Silence to be, while Proclamation is making, and after that shall openly with a loud Voice, make, or cause to be made Proclamation.*

R O B B E R Y.

An Indictment of Felony for Robbery from the Person in the Highway.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *E. H.* late of the Parish of *Hornsey*, in the County of *Middlesex*, Labourer, on the twenty-third Day of *September*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain*, with Force and Arms, at the Parish aforesaid, in the County aforesaid, in the * King's Highway there, in and upon one *W. T.* in the Peace of God, and our said Lord the King, then and there being, feloniously did make an Assault, and him the said *W. T.*⁽⁶⁾ in bodily Fear and Danger of his Life, in the Highway aforesaid, then and there, feloniously did put, and one Gold Watch, of the Value of eighteen Pounds, of the Goods and Chattles of the said *W. T.* from the Person and against the Will of the said *W. T.* in the Highway aforesaid, then and there, feloniously

Recite here all the Goods and Monies taken.

* *If in a Field say, in a certain Field and open Place near the King's Highway, so throughout the Indictment.*

(6) This circumstance not necessary to be put in the indictment by the opinion of Holt & Foster. Foster on l. 128. and

474 **Precedents of Indictments, &c.**

and violently did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Taking from the Person, where the Person is put in Fear, is Robbery.

Robbery is a felonious and violent taking away from the Person, Goods or Money of any Value whatsoever, for the smallness of the Value is no Mitigation, when the Person is put in Fear, so that if a Penny is taken, or less, either in Goods or Money, the Offender is equally punishable as if he had taken one Hundred Pounds, or any greater Sum, for 'tis supposed, had the Prosecutor had more, he would have taken all.

Offender ousted of Clergy, tho' the Value be ever so small.

Offender not indictable for Robbery only in the County where the Fact was committed.

If A steals Goods in the County of B, and carries them into the County of C, he may be indicted in the County of C for Larceny, but can be indicted for Robbery only in the County of B.

If a Thief with or without Weapon drawn, bid the Party deliver his Purse, and he doth it, this is a taking to make it Robbery. H. P. C.

If a Thief commands a Man to deliver his Purse, and he delivers it, and then the Thief finding little in it, delivers it back, this is a Robbery. ibid.

If a Thief compels a Man by Fear, to swear to fetch him a Sum of Money, which he doth accordingly, and the Thief receives it, it is Robbery. ibid.

If a Man's Purse be fasten'd to his Girdle, and a Thief cuts the Girdle, and the Purse falls to the Ground, it is no Robbery; but if the Thief takes up the Purse and lets it fall again 'tis a Robbery, tho' he never takes it up any more. ibid.

All in Company are Principals, tho' one actually does it. ibid.

A, B,

A, B, and C, assaulted D, with Intent to rob him in the Highway, but robbed him not, for that D escaped from them; A went from the Rest in the same High-way, and robbed E out of their View; for this B, and C, were arraigned and executed, tho' assented not, because they all came with an Intent to rob.

Crompt. 34.
Pudsey's Case.

If a Man seeking to escape, cast his Purse into a Bush, or let fall his Hat, and the Thief take it, it is a Robbery: H. P. C. But the Man must have been assaulted by the Thief, and put in Fear.

If one take and drive my Cattle out of my Pasture, in my Presence, this is Robbery, if he make an Assault upon me and put me in Fear; but if he take away any Thing from my Person, without putting me in Fear by Assault or Violence, no Robbery; and the Indictment runs, that he took it from the Person, violently and feloniously putting him in Fear.

Dal. cap. 10.

Dal. ibid.

Taking a Man's Goods out of his Shop before his Face, is a Robbery, as if he had taken from the Person; and it is nothing to the purpose, tho' the Thief say, I have Right to this, or this is mine, if he have no Colour, Hal. P. C.

By the Stat. 23 Hen. 8. c. 1. No Persons who shall be found guilty of Robbing any Person, putting them in Fear, in or near High-ways, nor their Abettors, Procurers, Helpers, Maintainers, or Counsellors, shall not have Benefit of Clergy, but suffer Death. Stat.

Accessories excluded.

25 H. 8. c. 3. 4 & 5 Ph. & Ma. c. 4.

Reward on Conviction, by the Stat. 4 & 5 W. & M. c. 8. Any Person who shall apprehend and prosecute any Highway-man to Conviction, shall, on producing the Certificate of the Judge, before whom the Party was convicted, receive of the Sheriff of the County where the Robbery was committed,

the

476 **Precedents of Indictments, &c.**

the Reward of forty Pounds, and be entitled to the Horse, Furniture, Arms, Money, &c. of the Highwayman, unless they were stolen from other Persons, in which Case the Property is not altered; and if any one is killed in taking a Highway-man, those who have a right to administer, shall have forty Pounds.

An Indictment of Felony, for a Robbery from the Person violently in a Dwelling-House.

Middlesex. **T**H E Jurors for our Lord the King upon their Oath present, That *E. L.* late of the Parish of *St. Botolph* without *Algate*, in the County of *Middlesex*, Labourer, and *H. T.* late of the same, Carpenter, on the fifth Day of *December* in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, in the Dwelling-House of one *J. J.* there situate, in and upon *A.* the Wife of the said *J. J.* in the Peace of God, and our said Lord the King, then and there being, feloniously did make an Assault, and her the said *A.* in bodily Fear and Danger of her Life, in the said Dwelling-House, then and there, feloniously did put, and one Linen Pocket, of the Value of one Penny, and three Pieces of Gold Coin, of the proper Coin of this Realm, called *Guineas*, of the Value of three Pounds three Shillings, of the Goods, Chattles, and Monies of the said *J. J.* from the Person, and against the Will of the said *A.* in the Dwelling-House aforesaid, then and there, violently and feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Goods and Chattels of the Husband, for a Wife can have no Property.

By

S A C R I L E G E. 477

By the Stat. 23 Hen. 8. c. 1. Robbing any Person in a Dwelling-House of the Owner, Wife, Children, or Servants put in Fear, ousts of Clergy in Case of Conviction, and the Accessary before.

Note, In this Case there is no Reward. See Stra. 1015.

S A C R I L E G E.

An Indictment of Felony for Sacrilege; in stealing Goods out of a Church.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. N.* late of the Parish of *Kingston* upon *Thames* in the County of *Surry*, Labourer, and *L. C.* late of the same Labourer, on the fourth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Silver Cup, of the Value of six Pounds, of the Goods and Chattles of the Parishiners of the said Parish (in the Custody of *W. T.* and *D. E.* then Church-Wardens of the same Parish) in the Church of the Parish aforesaid, then and there being found, then and there feloniously and sacrilegiously did steal, take, and carry away, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

As to Sacrilege, viz. the felonious taking of any Goods out of any Parish Church, or other Church or Chappel; the Principal is ousted of Clergy by the Statutes 23 H. 8. c. 1. 25 H. 8. c. 3. and lastly by 1 E. 6. c. 12. in all Cases above-mentioned.

And

478 *Precedents of Indictments, &c.*

And by the Stat. of 23 H. 8. c. 1. the Accessary before, if found guilty by Verdict or Confession, was ousted of Clergy, but that is repealed by Stat. 1 E. 6. c. 12. as to all Accessaries.

And the Stat. of 4 & 5 Ph. & Ma. c. 4. extends not to this Case, for it takes away Clergy from Robbery of any Dwelling-House; but doth not extend to robbing of Churches and Chappels: But if robbing a Church, &c. should be attended with Burglary, and construed to be Burglary, then Clergy would be excluded from the Accessaries before, by the Stat. 3 & 4 of W. & M. c. 9.

And Lord Hale, in his History of the Pleas of the Crown, says, That certainly Clergy was not taken away in Case of Sacrilege, at Common-Law; or if it were, yet the Stat. of 25 E. 3. and the Statutes 23 H. 8. and 1 E. 6. had been needless in this Case, if Sacrilege were ousted of Clergy at Common-Law, and accordingly is the Book of 26. Affiz. 19. and consequently, it is mistaken in Poulter's Case. 11 Co. Rep. 29. b.

SEDITIONOUS WORDS.

Seditious Words against the King.

Middlese . **T**HE Jurors for our Lord the King upon their Oath present, That J. S. late of the Parish of St. Martin in the Fields, in the County of Middlesex, Gent. being a pernicious and seditious Man, and a Person of depraved, impious, and disquiet Mind, and of a seditious Disposition and Conversation, and contriving, practicing, and falsely, maliciously, turbulently, and seditiously intending the Peace and common Tranquility of our Lord the King, and this Kingdom of *England*, to disquiet, molest, and disturb, and to bring our most Serene Lord George the Third,

Third, now King of *Great Britain*, in great Hatred, Contempt, and Scandal, with all his liege and faithful Subjects of this Realm, and the Colonels, Captains and other Military Officers and Soldiers of our said Lord the King, to scandalize and vilify, and that the said J. S. his most wicked Contrivances, Practices and Intentions aforesaid, to compleat, perfect and render effectual, on the tenth Day of *May*, in the first Year of the Reign of our said Sovereign Lord *George* the Third, now King of *Great Britain*, at the Parish aforesaid, in the County aforesaid, having Discourse then and there concerning our said Lord the King, and the Guards of our said Lord the King, and of their Business, in the Presence and Hearing of divers liege Subjects of our said Lord the King, then and there present, falsely, maliciously, unlawfully, wickedly and seditiously, of our said Lord the King, and of his Colonels and Officers, did say, assert, affirm, and pronounce, and with a loud Voice did declare these false, fictitious, malicious, seditious and opprobrious *English* Words following (that is to say) the Colonels and the rest of the Officers (meaning the said Colonels and Officers in the Guards of our said Lord the King) are a Company of Rogues and Villains, for that their business is to uphold their Master (meaning our said Lord the King) who (meaning our said Lord the King) is a Villain and a Rogue, and never kept his Word in any Thing, he (meaning again our said Lord the King) said; and that the said J. S. in further Prosecution of his Malice towards our said Lord the King before had, afterwards, to wit, on the same Day and Year, at the Parish aforesaid, in the County aforesaid, falsely, maliciously, diabolically, seditiously and most wickedly, in the Presence and Hearing of divers other liege and faithful Subjects of our said

480 **Precedents of Indictments, &c.**

saïd Lord the King, then and there present, did say, utter, and with a loud Voice pronounce, asserf and affirm, that our saïd Lord the King was a Villain and a Rogue, and never kept his Word in any thing he saïd, to the great Shame and Scandal of our saïd Lord the King, Colonels and other Officers of the Guards of our saïd Lord the King, to the evil Example of all others in the like Case offending, and against the Peace of our saïd Lord the King, his Crown and Dignity.

For speaking Seditious Words against the King.

Middlesex. **T**HE Jurors, &c. That *A. B.* of &c. being a pernicious and seditious Man, and contriving and intending the liege Subjects of our saïd Lord the King, to incite and move to hatred and dislike of the Person of our saïd Lord the King, and the Government established within this Realm, on the tenth Day of *January*, in the first Year of the Reign of our Sovereign Lord George the Third, now King of *Great Britain*, &c. at the Parish aforesaid, in the County aforesaid, in the Presence and Hearing of divers liege Subjects of our saïd Lord the King, with whom the saïd *A. B.* then and there was talking of, and concerning our saïd Lord the King, unlawfully, maliciously and wickedly did publish, utter and declare with a loud Voice these *English* Words following (to wit) He (meaning our saïd Lord the King) is a Whelp and a Bastard; to the great Scandal and Contempt of our saïd Lord the King, and his Laws, to the evil and pernicious Example of all others in the like Case offending, and against the Peace of our saïd Lord the King, his Crown and Dignity.

All Contempts against the King's Person or Government are very highly Criminal, and punishable with Fine and Imprisonment, and sometimes with the Pillory, by the Discretion of the Judges; upon the Consideration of all the Circumstances of the Case, as by charging the Government with Oppression or weak Administration; the doing any Act which impliedly encourages Rebellion; the endeavouring to frighten the King into a Change of his Measures, with Threats of the Uneasiness of his Subjects; spreading false Rumours concerning the King's Intention; charging him with a Breach of his Coronation Oath, speaking contemptuously of him, as by cursing him, &c. or giving out that he wants Wisdom, Valour or Steadiness, or in general, doing any thing which may lessen him in the Esteem of his Subjects, and weaken his Government, or raise Jealousies between him and his People.

1 Hawk. P. C.
chap. 13.

S E R G E, &c.

An Indictment of Felony, for forcibly entering a Dwelling-House, with Intent to cut Serge in the Loom, and for cutting and destroying the same.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *H. S.* late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, Labourer, and *A. W.* late of the same, Labourer, after the twenty-fourth Day of *June*, in the Year of our Lord, One thousand seven hundred and sixty one, to wit, on the seventh Day of *December*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of Great Britain, &c. with Force and

Arms, at the Parish aforesaid, in the County aforesaid, the Dwelling-House of one T. D. there situate, then and there, feloniously and forcibly did break and enter into, with an Intent, feloniously and maliciously to cut and destroy a certain Quantity of Woolen Serge, in a certain Loom, used in making thereof, belonging to him the said J. D. in the same Dwelling-House, then and there being, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, that the said H. S. and A. W. afterwards, to wit, on the same seventh Day of *December*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid in the County aforesaid, twenty Yards of Woolen Serge, of the Value of four Pounds, of the Goods and Chattels of J. D. in a certain Loom, used in the making Woolen Serge, belonging to him the said J. D. in the said Dwelling-House of him the said J. D. then and there being, then and there, feloniously and maliciously did cut and destroy, (they the said H. S. and A. W. then not having, nor either of them having the Consent of the said J. D. the Owner aforesaid, so to do) against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 12 Geo. I. c. 34. If any Person by Day or by Night, break into any House or Shop, or enter by Force into any House or Shop with Intent to cut or destroy any Serge, or other Woolen Goods, in the Loom, or any Tools employed in the making thereof, or shall wilfully and maliciously cut and destroy any such Serges, or Woolen Goods in the Loom, or on the Rack, or shall burn, cut, and destroy any Rack,

Rack, on which any such Serges, or other Woolen Goods are hanged in order to dry, or shall wilfully and maliciously break or destroy any Tools used in the making any such Serges, or other Woolen Goods, not having the Consent of the Owner so to do, every such Offender being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in Case of Felony, without Benefit of Clergy.

This Act extends to Combers and Frame-work Knitters.

By the same Statute there are several other Cases made Felony, within Benefit of Clergy viz. If any Person assault or abuse a Master Wool Comber or Master Weaver, or other Person concerned in the Woolen Manufactures in this Kingdom, whereby any such Master or Person shall receive any bodily Hurt, for not complying with the illegal Bye-laws, Ordinances, Rules, or Orders (mentioned in the said Act) or send threatening Letters, to burn, pull down, or destroy their Houses, &c. for not conforming, &c. being lawfully convicted, upon any Indictment, to be found within twelve Calendar Months next after such Offence committed, shall be adjudged guilty of Felony, and shall be transported for seven Years, in such Manner, and under such Pains and Penalties as Felons in other Cases are by Law to be transported.

By the Stat. 15. & 16. Geo. 2. c. 27. Reciting that whereas Clothiers and others concerned in the Woolen Manufacture, are under a necessity of letting their Cloth, and other Woolen Goods remain upon the Rack or Tenters, as also of suffering their Wool to be exposed in the Night-time, in order the better to dry, and prepare the same; whereby they are more frequently liable to be stolen by wicked and evil designing Persons, who are encouraged in their Wickedness, by the Difficulty of proving the identity of the Goods stolen; it is enacted, that in Case any Cloth or Woolen

484 *Precedents of Indictments, &c.*

Goods remaining upon the Rack, or Tenters, or any Woolen Yarn, or Wool left out to dry shall be stolen or taken away in the Night-time; it shall be lawful for any Justice of the Peace, of the same County or Place, upon Complaint made within ten Days after such Cloth, Woolen Goods, Woolen Yarn or Wool shall have been so stolen or taken away, by the Owner of such Cloth, &c. by Warrant under his Hand and Seal to authorise any Constable &c. in the Day-time, to enter into, and search the Houses, Out-houses, Yards, Gardens, or other Places belonging to the Houses of every Person whom the Owner of such Cloth, &c. shall upon his Oath declare to such Justice he suspects to have stolen, taken away or received the same; and in Case such Constable, &c. shall find or discover any Cloth, &c. which he shall from the Information of the Person making such Oath, have Reason to suspect to be so stolen, &c. he shall forthwith apprehend, every Person in whose Custody or Possession such Cloth, &c. shall be found, and carry him before some Justice of the Peace of the same County, &c. and if the said Person suspected, apprehended, and carried before the said Justice, shall not then and there give a satisfactory Account how he acquired the Property or Possession of such Cloth, &c. or shall not within some convenient Time, to be set by the said Justice, produce the Party of whom he received the same, or some other credible witness to depose upon Oath, such Property or Right to the Possession of the said Cloth, &c. that the said Person so suspected, and not giving such satisfactory Account, nor producing any such Witness upon Oath, to testify as aforesaid, shall be deemed and adjudged as convicted of the said Offence, of stealing or taking away the said Cloth, &c. and shall for the first Offence, forfeit treble the Value, and for the second Offence forfeit the like, and suffer six Months Imprisonment: and if such Person shall again commit the said Offence, and be thereof convicted

convicted as aforesaid, the Justice shall forthwith issue his Warrant to commit the said Offender to the common Gaol as aforesaid, there to remain till the next Assises or Great Session, where the said Offender shall be tried for the said Offence, and in Case such Offender shall by producing the Party of whom he acquired the Property and Possession of such Cloth, &c. or otherwise prove to the Satisfaction of the Jury, shall be lawfully obtained, the Property or Possession of the same, he shall be judged to be guilty of Felony and suffer Transportation for the Space of seven Years, and shall be liable to the same Punishment and to the like Methods of Prosecution, Trial, and Conviction for returning from such Transportation, as other Felons transported are liable to, by virtue of the Laws now in force.

Provided that this Act shall not extend to alter or repeal any Law now in Force, for the Punishment of any Person stealing or receiving such Cloth, &c. except in such Cases where the Proof is laid upon the Offenders as aforesaid.

S E R V A N T S.

An Indictment of Felony against a Servant, for embezzling his Master's Goods, delivered to him to keep for his Master's Use.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. L.* late of the Parish of St. George, Hanover-square, in the County of *Middlesex*, Labourer, on the eighth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain*, &c. then being a Servant to one *G. V.* and not an Apprentice, or a Person within the Age of eighteen Years, he the

486 **Precedents of Indictments, &c.**

saïd G. V. did, then and there, upon Confidence and Trust deliver unto his saïd Servant, one Silver Tankard, of the Value of five Pounds, of the Goods and Chattels of him the saïd G. V. safely to keep the same Goods and Chattels to the Use of him the saïd G. V. and that he the saïd A. L. afterwards, to wit, on the twentieth Day of the same Month of *November*, in the Year aforesaid, with Force and Arms, at the Parish aforesaid, in the County aforesaid, did withdraw himself from the saïd G. V. his saïd Master, and feloniously did go away with the same Silver Tankard above mentioned, to the Intent to steal the same, and defraud the saïd G. V. his saïd Master thereof, contrary to the Trust and Confidence to him the saïd A. L. put by the saïd G. V. his saïd Master, against the Form of the Statute in that Case made and provided, and against the Peace of our saïd Lord the King, his Crown and Dignity.

If the Servant does not withdraw himself, but continues in his Service, then say, without Assent or Commandment of the saïd G. V. his saïd Master, he the saïd A. L. feloniously did embezzle the same Silver Tankard, and convert the same to his own Use, with Intent, &c. Go on and conclude as above.

By Stat. 21 H. 8. c. 7. Servants having Caskets and other Jewels, Money, Goods, and Chattels, delivered to them by their Masters or Mistresses, safely to be kept to the Use of their saïd Masters and Mistresses, and after such Delivery, withdraw themselves from their saïd Masters or Mistresses, and go away with the saïd Caskets, &c. or any Part thereof, to the Intent to steal the same, and defraud his or their saïd Masters or Mistresses thereof, contrary to the Trust and Confidence to him or them put, by his or their saïd Masters or Mistresses, or else being in the Service of his

his said Master or Mistress, without Assent or Commandment of his Master or Mistress, he embezle the same Caskets, &c. or any Part thereof, or otherwise convert the same to his own Use, with like Purpose to steal it. That if the said Caskets, &c. that any such Servant shall so go away with, or which he shall embezle with Purpose to steal it, as is aforesaid, be of the Value of forty Shillings, or above, that then the same false, fraudulent, and untrue Act and Demeanor, should be adjudged Felony, and he and they, so offending, to be punished, as other Felons be punished for Felonies committed by the Course of the Common Law.

Clergy taken away by Stat. 27 H. 8. c. 17. both the above Statutes made perpetual by Stat. 28 H. 8. c. 2. afterwards repealed by 1 Ed. 6. c. 12. and 1 M. 1. which said Statute of Stat. 21 H. 8. c. 7. is revived, and again made perpetual by Stat. 5 Eliz. c. 10. No Time limited to prosecute.

This Act not to extend to Apprentices, nor any Person within the Age of eighteen Years, who shall embezle Goods delivered them to keep to the Use of their Master, &c.

Note, If a Servant, and Apprentice, or any Person within the Age of eighteen Years, shall embezle their Masters Goods, which were not delivered to them, nor committed to their Charge, although they be under the Value of forty Shillings, and of the Value of no more than Twelve pence, this is Felony.

S H E E P.

An Indictment of Felony, for killing Sheep, with an Intent to steal Part of their Carcasses.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Twickenham*, in the County
 I i 4 of

488 **Precedents of Indictments, &c.**

of *Middlesex*, Labourer, on the twelfth Day of *February*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, five Sheep, of the Value of three Pounds two Shillings and Sixpence, of the Goods and Chattels of *C. D.* then and there being found, wilfully and feloniously did kill, with a felonious Intent to steal Part of the Carcasses, that is to say, the inward Fat of the said five Sheep, against the Peace of our said Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

By the Stat. 14 Geo. 2. c. 6. Reciting, That whereas divers evil-disposed Persons had of late more generally and frequently than was ever known before, made it their Practices secretly in the Night-time to drive away, and steal great Numbers of Sheep, and likewise secretly in the Night-time to kill great Numbers of Sheep, and to strip off their Skins, and then steal the Carcass of the Sheep so killed, leaving their Skins behind to prevent Discoveries; and also in like Manner to kill great Numbers of Sheep, and then cut open the Sheep so killed, and take out and steal their inward Fat, leaving their Carcasses behind to prevent being discovered; it is enacted, That if any Person or Persons, shall feloniously drive away, or in any other Manner feloniously steal one or more Sheep, or other Cattle of any other Person or Persons whatsoever, or shall wilfully kill one or more Sheep or other Cattle of any other Person or Persons whatsoever, with a felonious Intent to steal the whole Carcase or Carcases, or any Part or Parts of the Carcase or Carcases, of any one or more Sheep or other Cattle that shall be so killed, or shall assist or aid any Person or Persons to commit any such Offence or Offences; that then the Person or Persons

Persons guilty of any such Offence, being thereof convicted in due Form of Law, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

*And that all and every Person and Persons, who shall apprehend and prosecute to Conviction, any Offender or Offenders guilty of any of the Offences herein before mentioned, shall have and receive, as a Reward, upon every such Conviction, the Sum of ten Pounds to be paid within one Month after such respective Conviction, by the Sheriff or Sheriffs of the County where such Offence or Offences shall be committed and done (without any Deduction whatsoever) to the Person or Persons so apprehending and prosecuting such Offender or Offenders, he or they tendering a Certificate to the Sheriff or Sheriffs, signed by the Judge or Judges, before whom any such Offender shall be committed, certifying such Conviction, and where the Offence was committed, and that such Offender or Offenders, was or were apprehended and prosecuted by the Person or Persons claiming the said Reward; which Certificate the said Judge or Judges are hereby authorised and required to sign accordingly, before the End of the same Session or Assises, at which such respective Conviction shall happen to be; and in such Certificate shall direct and appoint (in Case more than one Person shall claim a Right to the said Reward) what Share and Proportion thereof shall be paid to each Claimant; and if it shall happen that any such Sheriff or Sheriffs shall die or be removed before the Expiration of one Month after such Conviction, and Demand made of the said Reward (the same not being paid as aforesaid) that then the next succeeding Sheriff or Sheriffs, shall pay the same within one Month after demanded, and Certificate brought as aforesaid; and if Default of Payment of the said Sum or Sums of Money shall happen to be made by any Sheriff or Sheriffs, such Sheriff or Sheriffs so making Default, shall forfeit to the Per-
son*

490 Precedents of Indictments, &c.

son or Persons, to whom such Money is due as aforesaid, double the Sum or Sums of Money he or they ought to have paid to be recovered by him or them, or his or their Executors or Administrators, in any of his Majesty's Courts of Record at Westminster, Action of Debt, &c. with treble Cost of Suit by him or them expended in the Recovery of the same.

And by the Stat. 15 & 16 Geo. 2. c. 34. It is declared and enacted, That the said Stat. 14 Geo. 2. c. 6. was meant and intended, and shall be construed, deemed, and taken to extend to any Bull, Cow, Ox, Steer, Bullock, Heifer, Calf, and Lamb, as well as Sheep, and to no other Cattle whatsoever.

S H I P S.

An Indictment of Felony, for wilfully burning and destroying a Ship.

Admiralty of **T**HE Jurors for our Lord the England. King upon their Oath present, That *E. J.* late of *London*, Mariner, and *N. W.* late of *London*, Mariner, after the twenty-fourth Day of *June*, in the Year of our Lord One thousand seven hundred and sixty-one, to wit, on the seventh Day of *December*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, * upon the high Sea, within the Jurisdiction of the Admiralty of *England*, about half a League distant from *Leghorn* in *Italy*, in Parts beyond the Seas, then being Mariners, belonging to a certain Merchant Ship, called the *Dolphin*, and then and

* Note, If the Offence is committed on the high Sea, you say, as in the Precedent; but if the Offence be committed in any County within this Realm, then you only mention the Place and County where committed.

there

there being in and on board the said Ship, did then and there wilfully and feloniously burn and destroy the said Ship, and direct and procure the said Ship to be burnt and destroyed, to the great Prejudice of divers Persons, Merchants (to the Jurors aforesaid unknown, that had laden Goods thereon) against the Form of the Statute, in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 12 Ann. Stat. 2. c. 18. If any Person or Persons shall make or be assisting in the making any Hole in the Bottom, Side, or any other Part of any Ship or Vessel in Distress, or shall steal any Pump belonging to any Ship or Vessel so in Distress, or shall be aiding or abetting in the stealing such Pump, or shall do any Thing tending to the immediate Loss or Destruction of such Ship or Vessel, such Persons are made guilty of Felony, without Benefit of Clergy.

And by the Stat. 4 Geo. 1. c. 12. If any Owner, Captain, Master, Mariner, or other Officer belonging to any Ship, after the 24th Day of June, in the Year of our Lord, One thousand seven hundred and eighteen, wilfully cast away, burn, or otherwise destroy the Ship of which he is Owner, or unto which he belongeth, or in any Manner direct or procure the same to be done, to the Prejudice of any Person or Persons, that shall under-write any Policy or Policies of Assurance, or if any Merchant or Merchants that shall load Goods thereon, he shall suffer Death.

Note, By this Stat. the Stat 12 Ann. Stat. 2. c. 18. is made perpetual.

Some Doubts having arose touching the Nature of the Offence provided against by the two last mentioned Acts, and the Trial and Punishment to be had and inflicted for the same. *By the Stat. 11 Geo. 1. c. 29. it is therefore enacted, That if any Owner of, or Captain, Master, Officer, or Mariner, belong-*

492 Precedents of Indictments, &c.

belonging to any Ship or Vessel, shall, after the twenty-fourth Day of June, One thousand seven hundred and twenty-five, wilfully cast away, burn, or otherwise destroy the Ship or Vessel, of which he is Owner, or to which he belongeth, or in any wise direct or procure the same to be done, with Intent or Design to prejudice any Person or Persons, that shall underwrite any Policy or Policies of Insurance thereon, or any Merchant or Merchants, that shall load Goods thereon, or of any Owner or Owners of such Ship or Vessel, the Person or Persons offending therein, being thereof lawfully convicted, shall be deemed and adjudged a Felon or Felons, and shall suffer as in Cases of Felony, without Benefit of Clergy.

If any of such Offences be committed within the Body of any County within this Realm, the Offenders shall be tried in such County as in other Cases of Felonies are tried, and if the Offences shall be committed upon the high Seas, the same shall be tried in such Manner as by the Stat: 28 Hen. 8. (intituled, *For Pirates*) is directed and appointed for trying Felonies done upon the high Seas.

Indictment for stealing to the Value of forty Shillings, in Ship, &c.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* on, &c. with Force and Arms at the Parish of _____ in the County aforesaid, twenty Pound Weight of Indico, of the Value of _____ the Goods, Wares, and Merchandize of *C. D.* and *E. F.* then and there being in a certain Ship, called the _____ upon the navigable River of *Thames*, and and then and there found, feloniously did steal, take,

take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Stat. 24 Geo. 2. c. 45. *enacts, That all and every Person and Persons that shall, at any Time after the 24th of June 1751, feloniously steal any Goods, Wares, or Merchandize, of the Value of forty Shillings, in any Ship, Barge, Lighter, Boat, or other Vessel or Craft, upon any navigable River, or in any Port of Entry or Discharge, or in any Creek belonging to any navigable River, &c. or on any Wharf or Key adjacent to any navigable River, &c. or shall be present, aiding, and assisting, shall be excluded from Benefit of Clergy. Stealing Ship-wrecked Goods deprived of Clergy. By Stat. 26 Geo. 2. c. 19.*

S H O P, &c.

An Indictment of Felony, for stealing above Five Shillings out of a Shop, Ware-house, Coach-house, or Stable Mutatis Mutandis.

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That S. D. late of the Parish of St. Clement Danes, in the County of *Middlesex*, Labourer, on the first Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Cloth Coat, of the Value of fifteen Shillings, and one Cloth Waist-Coat, of the Value of ten Shillings, of the Goods and Chattels of one *I. B.* in the Shop of him the said *I. B.* then and there being found, then and there privately and feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

By

492 *Precedents of Indictments, &c.*

belonging to any Ship or Vessel, shall, after the twenty-fourth Day of June, One thousand seven hundred and twenty-five, wilfully cast away, burn, or otherwise destroy the Ship or Vessel, of which he is Owner, or to which he belongeth, or in any wise direct or procure the same to be done, with Intent or Design to prejudice any Person or Persons, that shall underwrite any Policy or Policies of Insurance thereon, or any Merchant or Merchants, that shall load Goods thereon, or of any Owner or Owners of such Ship or Vessel, the Person or Persons offending therein, being thereof lawfully convicted, shall be deemed and adjudged a Felon or Felons, and shall suffer as in Cases of Felony, without Benefit of Clergy.

If any of such Offences be committed within the Body of any County within this
How Offences *are to be tried,*
&c. *Realm, the Offenders shall be tried in such County as in other Cases of Felonies are tried, and if the Offences shall be committed upon the high Seas, the same shall be tried in such Manner as by the Stat. 28 Hen. 8. (intituled, For Pirates) is directed and appointed for trying Felonies done upon the high Seas.*

Indictment for stealing to the Value of forty Shillings, in Ship, &c.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B. on, &c.* with Force and Arms at the Parish of _____ in the County aforesaid, twenty Pound Weight of Indico, of the Value of _____ the Goods, Wares, and Merchandize of *C. D. and E. F.* then and there being in a certain Ship, called the _____ upon the navigable River of *Thames*, and and then and there found, feloniously did steal, take,

take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

Stat. 24 Geo. 2. c. 45. *enacts, That all and every Person and Persons that shall, at any Time after the 24th of June 1751, feloniously steal any Goods, Wares, or Merchandize, of the Value of forty Shillings, in any Ship, Barge, Lighter, Boat, or other Vessel or Craft, upon any navigable River, or in any Port of Entry or Discharge, or in any Creek belonging to any navigable River, &c. or on any Wharf or Key adjacent to any navigable River, &c. or shall be present, aiding, and assisting, shall be excluded from Benefit of Clergy. Stealing Ship-wrecked Goods deprived of Clergy. By Stat. 26 Geo. 2. c. 19.*

S H O P, &c.

An Indictment of Felony, for stealing above Five Shillings out of a Shop, Ware-house, Coach-house, or Stable Mutatis Mutandis.

Middlesex. **T**H E Jurors for our Lord the King, upon their Oath present, That S. D. late of the Parish of St. Clement Danes, in the County of *Middlesex*, Labourer, on the first Day of *August*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain*, &c. with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Cloth Coat, of the Value of fifteen Shillings, and one Cloth Waist-Coat, of the Value of ten Shillings, of the Goods and Chattels of one *I. B.* in the Shop of him the said *I. B.* then and there being found, then and there privately and feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity.

By

494 Precedents of Indictments, &c.

By the Stat. 10 & 11 W. 3. c. 23. If any Person steal out of a Shop, Ware-house, Coach-house, or Stable, any Goods privately and feloniously, of the Value of five Shillings, or more, though such Shop, &c. be not broken open, &c. or shall assist, hire, or command any Person to commit such Offence, &c. he shall not have the Benefit of Clergy.

Note, The Goods stolen must be the Property of the Owner of the Shop, &c. or else the Offender does not lose his Clergy; for this Act was made as a Remedy for the Owners of the Shops to preserve their Goods.

By the same Act, it is enacted, That where a Person shall apprehend a Felon for stealing any Thing to the Value of five Shillings, out of a Shop, Coach-house, Ware-house, or Stable, either in the Day-time or in the Night, and the Offender shall be convicted thereof, such Apprehender shall have a Certificate under the Hand of the Judge, before whom such Conviction was, setting forth the same, and within what Parish the Felony was committed, and the Person so taking or discovering the Felon; and if there are many Persons concerned, the Certificate is to be divided into Shares. This Certificate may be assigned once and no more: But Persons having made Use of it, shall not then assign over the said Certificate, and the original Proprietor, or his Assignee, shall be discharged of all Parish and Ward Offices, wherein such Felony shall be committed. The Certificate must be enrolled by the Clerk of the Peace of that County in which it shall be granted, for one Shilling Reward. And if a Person happen to be killed in taking a Felon, he that hath a Right to the Personal Estate shall have the Certificate.

The Word privately being in the Act of Parliament, (if it should be omitted in the Indictment) the Felon

cannot

S M U G G L E R S. 495

cannot be convicted for a capital Offence, but may have the Benefit of Clergy.

If the Offence be for stealing out of a Coach house, Ware-house, or Stable, then you say in the Indictment, out of the Coach-house, or Stable, or Ware-house, privately and feloniously, as the Case is.

Note, If the Jury do not find the Party guilty of the Indictment in general, but guilty to the Value of four Shiillings and Six-pence, or any thing under five Shillings; then the Party has the Benefit of his Clergy.

S M U G G L E R S.

An Indictment of Felony in resisting Custom-House Officers, and unlawfully and feloniously assembling with others, in order to be aiding and assisting in the Running and carrying away uncustomed Goods.

Suffex. **T**HE Jurors for our Lord the King upon their Oath present, That *A. R.* late, &c. and divers other Malefactors and Disturbers of the Peace of our said present Sovereign Lord the King, to the Number of thirty Persons and upwards (whose Names are as yet unknown to the said Jurors) since the twenty-fourth Day of *July*, which was in the Year One thousand seven hundred and sixty-one, to wit, upon the fourteenth Day of *September*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms, at the Parish of *E.* in the said County of *S.* being armed with Fire-Arms, and other offensive Weapons, did unlawfully, and feloniously assemble and gather themselves together, in order to be aiding and assisting

946 **Precedents of Indictments, &c.**

sisting in the running and carrying away uncustomed Goods, and Goods liable to pay Duties which had never been paid or secured, and being then and there so assembled, and gathered together as aforesaid, and being also then and there so armed as aforesaid, in and upon *M. T. H. T. S. T. S. J.* and *F. T.* being then and there Officers of the Customs of our said present Sovereign Lord the King, and being also then and there, in the Peace of God, and our said present Sovereign Lord the King, and being also then and there in the due Execution of their said several and respective Offices, in the due seizing and securing several Parcels of uncustomed Goods, and Goods liable to pay Duties, which had never been paid or secured, he the said *A. R.* and the said divers other Malefactors, and Disturbers of the Peace of our said present Sovereign Lord the King (whose Names are as yet unknown to the said Jurors as aforesaid) did then and there, with Force and Arms, unlawfully, riotously, routously, forcibly, and feloniously make an assault and affray, and also them the said *M. T. H. T. S. T. S. J.* and *F. T.* being then and there Officers of the Customs of our said present Sovereign Lord the King, as aforesaid, and being also then and there in the due Execution of their said several and respective Offices as aforesaid, he the said *A. R.* and the said divers other Malefactors and Disturbers of the Peace of our said present Sovereign Lord the King (whose Names are as yet unknown to the said Jurors as aforesaid) being then and there so assembled and gathered together as aforesaid, and being also then and there so armed as aforesaid, did then and there, with Force and Arms, unlawfully, riotously, routously, forcibly, and feloniously hinder, obstruct, oppose and resist, in Contempt of our said present Sovereign Lord the King and his Laws, to the evil and pernicious
Example

Example of others, &c. and against the Peace of our present Sovereign Lord the King, his Crown and Dignity, and also against the Form of the Statute in such Case made and provided. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A. R.* and divers other Malefactors, and Disturbers of the Peace of our said present Sovereign Lord the King, to the Number of thirty and upwards (whose Names are as yet unknown to the said Jurors) afterwards, that is to say, since the said twenty-fourth Day of *July*, which was in the said Year of our Lord One thousand seven hundred and sixty-one, to wit, upon the said fourteenth Day of *September*, in the first Year aforesaid, with Force and Arms, at the Parish of *E.* aforesaid, in the County of *S.* aforesaid, being armed with Fire-Arms, and other offensive Weapons, did unlawfully, riotously, routously, and feloniously assemble, and gather themselves together, in order to be aiding and assisting in the Running and carrying away uncustomed Goods, and Goods being liable to pay Duties, which had not been paid or secured, in Contempt of our said present Sovereign Lord the King and his Laws, to the evil and pernicious Example of others, &c. and against the Peace of our present Sovereign Lord the King, his Crown and Dignity, and also against the Statute in such Case made and provided. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A. R.* afterwards, to wit, upon the fourteenth Day of *September*, in the first Year aforesaid, with Force and Arms, at the Parish of *E.* aforesaid, in the County of *S.* aforesaid, them the said *M. T. H. T. S. T. S. J. and F. T.* being then and there Officers of the Customs of our said present Sovereign Lord the King, and being also then and there in the Peace of God and of our present Sovereign Lord the King, and being also then and there in the due Execution of their

498 **Precedents of Indictments, &c.**

said several and respective Offices, in the due seizing and securing several Parcels of uncustomed Goods, and Goods being liable to pay Duties, which had not been paid or secured, did then and there, with Force and Arms, unlawfully, forcibly, and feloniously hinder, obstruct, assault, oppose and resist, in Contempt of our present Sovereign Lord the King and his Laws, to the evil and pernicious Example of others, &c. and against the Peace of our present Sovereign Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

By the Stat. 19 Geo. 2. c. 34. it is enacted, That if any Persons, to the Number of three, or more, armed with Fire-Arms, or other offensive Weapons, shall be assembled, in order to be aiding and assisting in the illegal Exportation of Wool, or other Goods prohibited to be exported, or the carrying of Wool, or other such Goods, in order to such Exportation, or in the running, landing, or carrying away prohibited or uncustomed Goods, or Goods liable to pay any Duties, which have not been paid or secured; or in the illegal relanding of any Goods whatsoever, which have been shipped or exported upon Debenture or Certificate; or in rescuing or taking away the same, after Seizure, from any Officer or Officers of the Customs or Excise, of his Majesty's Revenue, or other Person or Persons employed by him or them, or assisting him or them, or from the Place where they shall be lodged by him or them; or in rescuing any Person, who shall be apprehended for any of the Offences made Felony, by this or any other Act relating to the Revenues of Customs or Excise; or in preventing the apprehending any Person, who shall be guilty of any such Offence; or in Case any Persons, to the Number of three or more, so armed as aforesaid, shall be so aiding or assisting, or if any Person shall have his Face blacked, or wear any Vizard, Mask, or other Disguise,
when

when passing with such Goods, or shall forcibly hinder obstruct, assault, oppose or resist any of the Officers of the Customs or Excise, or other his Majesty's Revenue, in the seizing or securing any such Goods; or, if any Person or Persons shall maim or dangerously wound any Officer of the Customs or Excise, or any other his Majesty's Revenue, in his attempting to go on board any Ship or Vessel within the Limits of any of the Ports of this Kingdom, or shoot at, maim, or dangerously wound him, when on board such Ship or Vessel, and in the due Execution of his Office or Duty, then every Person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

If any Person shall be charged with being guilty of any of the Offences aforesaid, before one of his Majesty's Justices of the Peace, or one of his Justices of the Court of King's Bench, by Information of one or more credible Person or Persons, upon Oath, by him or them to be subscribed, such Justice shall forthwith certify under his Hand and Seal, and return such Information to one of the principal Secretaries of State of his Majesty, his Heirs or Successors, who is to lay the same, as soon as conveniently may be, before his Majesty, his, &c. in his or their Privy-Council; whereupon it shall be lawful for his Majesty, his, &c. to make his or their Order, in his or their Privy-Council, thereby requiring and commanding such Offender or Offenders, to surrender him or themselves within the Space of forty Days after the first Publication thereof in the London Gazette, to the Lord Chief Justice, or any other his Majesty's Justices of the Court of King's Bench, or to any of his Majesty's Justices of the Peace, who upon such Offender or Offenders surrendering him or themselves, to commit him or them, without Bail or Mainprize, to the County-Gaol, or to the Gaol or Prison of the Place where he or they shall so
K k 2 *surrender,*

500 **Precedents of Indictments, &c.**

Surrender, to the End that he or they may be forthcoming to answer the Offence or Offences wherewith he or they shall stand charged according to due Course of Law; which Orders the Clerks of his Majesty's Privy-Council, shall cause to be forthwith printed and published in the two successive London Gazettes, and to be forthwith transmitted to the Sheriff of the County where the Offence shall be committed, who shall within fourteen Days after the Receipt thereof, cause the same to be proclaimed between the Hours of Ten in the Morning, and Two in the Afternoon, in the Market-Place, upon the respective Market-Days of two Market-Towns, in the same County, near to the Place where such Offence shall have been committed, and a true Copy of such Order shall be affixed upon some public Place in such Market-Towns: And in Case such Offender or Offenders shall not surrender him or themselves, pursuant to such Order of his Majesty, his Heirs or Successors, he or they, so neglecting or refusing to surrender him or themselves as aforesaid, or escaping after such Surrender, shall, from the Day appointed for his or their Surrender as aforesaid, be adjudged, deemed, and taken, to be convicted and attainted of Felony, and shall suffer Pains of Death, as in Cases of a Person convicted and attainted by Verdict and Judgment of Felony, without Benefit of Clergy; and it shall be lawful for the Court of King's Bench, or the Justices of Oyer and Terminer, or General Gaol Delivery for the County or Place where such Person shall be, to award Execution against such Offender and Offenders, in such Manner as if he or they had been convicted and attainted in the said Court of King's Bench, or before such Justice of Oyer and Terminer, or General Gaol Delivery respectively.

And that every Person, who shall after the Time appointed as aforesaid, for the Surrender of any Person so charged upon Oath with any of the Offences aforesaid, shall be expired, harbour, receive, conceal, aid,

aid, abet, or succour such Person, knowing him to have been so charged as aforesaid, and to have been required to surrender himself, by such Order as aforesaid, and not to have surrendered pursuant to such Order or Orders, being presented for the same, within one Year after the Offence committed, and lawfully convicted thereof, shall be guilty of Felony; and shall be transported as a Felon to some of the Plantations in America, for seven Years, and if he shall return before the Expiration of the said Term, he shall suffer as a Felon, without Benefit of Clergy.

If an Offender be taken and secured before the Expiration of the Time limited by the Order in Council, all Proceedings on the Order shall cease, and the Offender shall be tried by due Course of Law.

And for the better and more impartial Trial of any Indictment or Information, which shall be found, commenced or prosecuted, for any of the Offences made Felony, by this or any other Act relating to the Revenues of Customs or Excise, it is enacted, That every such Offence may be enquired of, examined, tried, and determined in any County in England, in such Manner and Form as if the Fact had been therein committed, provided that no Attainder for any of the Offences, made Felony by virtue of this Act, shall make or work any Corruption of Blood, Loss of Dower, or Forfeiture of Lands or Tenements.

If any Officers shall be killed, wounded, or beat in endeavouring to seize any Goods, or to apprehend any Offender, or any Goods shall be rescued, this Act appoints a Satisfaction to be made by the Hundred.

And also gives a Reward of five hundred Pounds for apprehending, and fifty Pounds extraordinary to any Person wounded in endeavouring to apprehend an Offender, and one hundred Pounds to the Executors of any Person killed.

An Offender against whom no Order in Council has issued, discovering and apprehending any other Offender

502 Precedents of Indictments, &c.

against whom such Order shall be made, he shall be acquitted of his own Offence, and all other like Offences for which no Prosecution shall have been commenced, and have his Share of the Reward.

If an Offender, against whom an Order in Council shall have been made, shall discover and cause two or more of his Accomplices to be apprehended, he shall have fifty Pounds for each Offender, as a Reward, and be acquitted. Ut Supra. Stra. 1166.

Offenders against the Customs indemnified on Condition of entering on board his Majesty's Ships. 30 Geo. 2. c. 39.

S O L D I E R S.

An Indictment of Felony, for hiring and retaining a Person to serve the French King as a Soldier.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *P. J.* late of the Parish of *St. John, Wapping*, in the County of *Middlesex*, Labourer, being a Person of a wicked and malicious Mind, and Disposition, and contriving and intending unlawfully to seduce, draw and intice one *J. W.* a Subject of the Crown of *Great Britain*, from his the said *J. W.*'s. Allegiance and Obedience, which he the said *J. W.* as a natural born Subject of the said Crown of *Great Britain*, owed to our said Lord the King that now is, as his supreme, true, and natural Lord, and to enlist and enter himself, the said *J. W.* as a Soldier in the Service of a foreign Prince, to wit, *Lewis* the *French King*, he the said *P. J.* on the seventeenth Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. with Force and Arms,

at

at the Parish aforesaid, in the County aforesaid, did wilfully, maliciously, and feloniously hire and retain the said *J. W.* then being a subject of our Lord the King, by promising and assuring him the said *J. W.* that if he (meaning him the said *J. W.*) would go abroad, and enter into the Service of the *French* King, he (again meaning him the said *J. W.*) should be made a Serjeant, and should have the Liberty of returning to *England* when he (again meaning him the said *J. W.*) should think fit; and did also then and there, unlawfully, corruptly and feloniously treat and entertain the said *J. W.* with Meat and Drink at the Costs and Charges of him the said *P. J.* and did also then and there give and deliver to the said *J. W.* the Sum of five Shillings, in Monies numbered, of lawful Money of *Great Britain*, with an Intent to cause the said *J. W.* to enter himself to serve a foreign Prince, to wit, *Lewis* the *French* King, as a Soldier, (without Leave or Licence of our said Lord the King first had and obtained, for inlisting any of the Subjects of our said Lord the King, to serve any foreign Prince, State or Potentate as Soldiers, under the Sign Manual, of our said Lord the King) against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *P. J.* in further Prosecution of his wicked and malicious Contrivance and Intention aforesaid, afterwards, to wit, on the said seventeenth Day of *January*, in the said first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, wilfully, maliciously and feloniously did cause and procure the said *J. W.* being a Subject of our said Lord the King, to embark on board a certain Ship then and there lying and
K k 4 being

being on the River of *Thames*, with an Intent to cause the said *J. W.* to go beyond the Seas, in order to be inlisted to serve a foreign Prince, to wit, *Lewis* the *French* King, as a Soldier (without Leave or Licence of our said Lord the King, first had and obtained, for inlisting any of the Subjects of our said Lord the King to serve any foreign Prince, State or Potentate as Soldiers, under the Sign Manual of our said Lord the King) against the Form of the Statute in such Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 9 Geo. 2. c. 30. 'tis enacted, That if any Subject of the Crown of Great Britain, from and after the twenty-fourth Day of June (then) next, shall within the Kingdom of Great Britain, or Ireland, or from and after the twenty-ninth Day of September (then) next, without the same, inlist, or enter himself, or if any Person shall procure any Subject of his Majesty, his Heirs, or Successors to inlist or enter himself, or hire or retain any Person, being a Subject of his Majesty, his Heirs, or Successors with an Intent to cause such Person to inlist, or enter himself, or procure any Person, being a Subject to his Majesty, his Heirs, or Successors, to go beyond the Seas, or embark with an Intent, and in order to be inlisted, to serve any foreign Prince, State, or Potentate, as a Soldier, without Leave or Licence of his Majesty, his Heirs, or Successors, first had and obtained, for inlisting any of the Subjects of his Majesty, his Heirs, or Successors, to serve any such foreign Prince, State, or Potentate, as Soldiers, under the Sign Manual of his Majesty, his Heirs or Successors, every such Person so offending, being thereof lawfully convicted, shall be taken, deemed, and adjudged to be

STOLEN GOODS. 505

be guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

All Offences committed against this Act, out of this Realm, may be alledged to be committed, and may be laid, and enquired of, and tried in any County in *England*.

Persons inlisted, inveigled or enticed to go beyond Seas, &c. in any foreign Service as non-commission'd Officers, or private Soldiers, without his Majesty's Licence, &c. shall, within fourteen Days after such inlisting, or Agreement to go beyond Seas, voluntarily discover upon Oath, before any of his Majesty's Justices of the Peace, or other civil Magistrate, the Person or Persons by whom he was so inlisted, &c. as aforesaid, so as he or they may be apprehended and convicted of the said Offence, such Person or Persons so discovering as aforesaid, shall be indemnified from the Penalties of this Act, and all other Penalties whatsoever, on Account of the said Offence.

A perpetual Law, no Time limited to prosecute.

STOLEN GOODS.

An Indictment of Felony for receiving Money to help a Person to stolen Goods; and not apprehending the Felon.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That on the first Day of *January*, in the first Year of the Reign of our Sovereign Lord *George the Third*, now King of *Great Britain, &c.* at the Parish of *St. Giles in the Fields*, in the County of *Middlesex*, one Gold Watch, with a Gold Chain of the Value of seventeen Pounds, of the Goods and Chattels of one *J. L.* (by a certain Felon, to the Jurors aforesaid

506 **Precedents of Indictments, &c.**

aforesaid as yet unknown) from the Person of him the said J. L. privily, secretly, and without the Knowledge of him the said J. L. with Force and Arms, was then and there feloniously stolen, taken and carried away. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That R. D. late of the Parish of St. Paul Covent-Garden, in the County aforesaid, Labourer, having a secret Acquaintance with the said Felon, to the Jurors aforesaid as yet unknown, afterwards, to wit, on the sixth Day of the same Month of January, in the Year aforesaid, at the Parish of St. Paul Covent-Garden, in the County aforesaid, (notwithstanding he the said R. D. did not apprehend, and cause to be apprehended the said Felon, who stole the said Watch and Chain as aforesaid, and cause the said Felon to be brought to his Trial for the same, and give Evidence against him) he the said R. D. with Force and Arms, under Pretence, and upon Account of helping the said J. L. to his said Watch and Chain, so feloniously stolen as aforesaid, did then and there, wilfully, unlawfully and feloniously take, of and from the said J. L. the Sum of seven Pounds of lawful Money of Great Britain, and did then and there deliver the same Watch and Chain, so as aforesaid feloniously stolen, to him the said J. L. against the Form of the Statute in such Case made and provided, to the great Damage of him the said J. L. to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King his Crown and Dignity.

By the Stat. 4 Geo. I. c. 11. 'tis enacted, That where-ever any Person taketh Money or Reward, directly or indirectly, under Pretence or upon Account of helping any Person or Persons to any stolen Goods or Chattels, every such Person, so taking Money or Reward

ward as aforesaid (unless such Person doth apprehend, or cause to be apprehended such Felon who stole the same, and cause such Felon to be brought to his Trial for the same, and give Evidence against him) shall be guilty of Felony, and suffer the Pains and Penalty of Felony, according to the Nature of the Felony committed in stealing such Goods, and in such and the same Manner, as if such Offender had himself stolen such Goods and Chattels, in Manner and with such Circumstances as the same were stolen.

Note, the notorious Jonathan Wild was, on the above-recited Clause, try'd, convicted and executed, 10 Geo. 1.

T R A D E.

For exercising an Art or Trade, not having served seven Years as an Apprentice, upon the Stat. 5 Eliz. c. 4.

Middlesex. **T**HE Jurors for our Sovereign Lord the King upon their Oath present, That *W. G.* late of the Parish of St George, *Hanover Square*, in the County of *Middlesex*, Yeoman, on the twelfth Day of *January*, in the fifth Year of the Reign of the late Queen *Elizabeth*, of *England*, and so forth, did not lawfully use or exercise any Art, Mystery, or manual Occupation within *England* or *Wales*, yet he the said *W. G.* afterward, to wit, the first Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, and continually afterwards, until the seventh Day of *May*, in the Year last above-mentioned, that is to say, for the Space of six whole Months and upwards, at the Parish aforesaid, in the County aforesaid, for his own Lucre of Gain, did set up,
use,

508 Precedents of Indictments, &c.

use, and exercise the Art, Mystery, or manual Occupation, of a Brewer, being an Art Mystery or manual Occupation, used within *England* aforesaid, on the said twelfth Day of *January*, in the said fifth Year of the Reign of the said late Queen *Elizabeth*, in which same Art, Mystery or manual Occupation of a Brewer, he the said *W. G.* was not brought up for the Space of seven Years as an Apprentice, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

The Session of Parliament was holden the twelfth Day of *January* 5 *Eliz.* c. 4. It is enacted, *That after the first Day of May now coming, it shall not be lawful to any Person or Persons, other than such as now lawfully use or exercise any Art, Mystery, or manual Occupation, to set up, occupy, use, or exercise any Craft, Mystery, or manual Occupation, now used or occupied within the Realm of England or Wales, except he shall be brought up therein seven Years, at the least, as an Apprentice (in Manner and Form as therein is described) upon Pain that every Person wilfully offending, forfeit forty Shillings for every Month. This Offence must be prosecuted within twelve Months.*

TRANSPORTATION.

An Indictment of Felony; returning from Transportation.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That at the Delivery of the Goal of our Lord the King of *Newgate,*

TRANSPORTATION. 509

Newgate, holden for the County of *Middlesex*, at *Justice-Hall*, in the *Old Bailey*, in the Suburbs of the City of *London*, on *Wednesday*, the fifth Day of *June*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain*, &c. before *J. R.* Esq; Chief Baron of the Court of *Exchequer* of our said Lord the King, Sir *E. P.* Knt. one of the Justices of our Lord the King, assigned to hold Pleas before the King himself, Sir *J. F. A.* Knt. one of the Justices of his Majesty's Court of *Common-Pleas*, and others their Fellows Justices, Justices of our said Lord the King, assigned to deliver the Goal of *Newgate* of the Prisoners therein being, *E. L.* late of the Parish of *St. Luke*, in the County of *Middlesex*, Labourer, according to the due Course of Law was tried, For that he the said *E. L.* on the sixth Day of *May*, in the first Year of the Reign of our said Lord the King, with Force and Arms, at the Parish aforesaid, in the County aforesaid, one Brass Tea-Kettle, of the Value of four Shillings; two Brass Candlesticks, of the Value of two Shillings, and one Callimanco Gown of the Value of five Shillings, of the Goods and Chattels of one *I. W.* then and there being found, feloniously did steal, take, and carry away, against the Peace of our said Lord the King, his Crown and Dignity. And thereupon, by a certain Jury of the Country, between our said Lord the King and the said *E. L.* in that behalf then duly taken, he the said *E. L.* was duly convicted upon the Indictment aforesaid, and thereupon the aforesaid *E. L.* by the above named Justices of our said Lord the King, assigned to deliver his Gaol of *Newgate* of the Prisoners therein being, was ordered to be transported as soon as conveniently might be, to some of the Colonies and Plant-

Caption of the Court.

Recital of the Indictment upon which the Defendant is convicted, and ordered for Transportation.

Order for Transportation.

510 Precedents of Indictments, &c.

Plantations then inhabited by the Subjects of our said Lord the King in *America*, in Parts beyond the Seas, for the Term of Seven Years, according to the Form of the Statute in such Case made and provided, as by the Record thereof doth more fully appear: and that the said *E. L.* afterwards, to wit, on the twelfth Day of *August*, in the said seventh Year of the Reign of our said Lord the

The Offence,
being *at large*
before Term expires.

King, with Force and Arms, feloniously, without any lawful Cause, was *at large* within this Realm of *Great Britain*, to wit, at the Parish of *St. Martin* in the *Fields*, in the County aforesaid, before the Expiration of the Term of Seven Years, for which he the said *E. L.* was ordered to be transported, as aforesaid, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. See the *Statute* of 4 *Geo. 1. c. 11.* 6 *Geo. 1. c. 23.*

By the Stat. 16. *Geo. 2. c. 15.* it is enacted, That if any Felon or other Offender already ordered, or hereafter to be ordered for Transportation, or who hath already, or hereafter shall agree to transport him or herself on certain Conditions, to any of his Majesty's Colonies or Plantations in *America*, either for Life, or any other Number of Years, shall be afterwards at large within * that Part of the Kingdom of *Great-Britain*, without some lawful Cause, before the Expiration of the Term for which he or she were so ordered to be transported, or had so agreed to transport him or herself, all and every such Person or Persons being thereof lawfully convicted, shall suffer Death, as in Cases of Felony, without Benefit of Clergy.

And every such Offender or Offenders shall be tried for any of the Offences aforesaid, before such Judges,

* Query, What Part?

and

2
1
6
9

TREASON.

511

and in such Manner, and the same Evidence made use of, for his or their Conviction, as is directed in and by the Stat. 6. Geo. 1. c. 23.

And whoever shall discover, apprehend, and prosecute to conviction of Felony, without Benefit of Clergy, any such Offender or Offenders so found at large within the Kingdom of Great Britain, shall be entitled to a reward of the Sum of twenty Pounds for every such Offender so convicted as aforesaid, shall have the like Certificate and like Payments made without Fee or Reward, as any Person or Persons may be entitled unto, for the apprehending, presenting, and Conviction of a Highwayman, by any Law or Laws for that Purpose.

Rebels transported and returning, &c. without Clergy, 20 Geo. 2. c. 46.

TREASON.

An Indictment of High-Treason for Endeavouring to draw a Subject of the King's to the Romish Religion.

Warwickshire. **T**HE Jurors for our Lord the King upon their Oath present, That R. L. late of the Parish of Bracles, in the County of Warwick, Clerk, little regarding the Laws and Statutes of this Realm, and not fearing the Pains and Penalties therein contained, on the eighteenth Day of October, in the first Year of the Reign of our Sovereign Lord George the Third, now King of Great Britain, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, feloniously and traiterously did put in Practice, and endeavour to withdraw, one T. W. of the Parish aforesaid, in the County aforesaid, Taylor,

Indictment for acting as a popish priest in administering the Sacrament to unknown persons according to the rights of the Romish Church ag^t Anthony Barnwell n^o. 17 & Giacomo Bilomic n^o. 16 on the roll in Trin 7. years 1767.

512 **Precedents of Indictments, &c.**

lor, a Subject of our said Lord the King, from his natural Obedience to our said Lord the King, and that the said *R. L.* on the same Day and Year, at the Parish aforesaid, in the County aforesaid, for the Intention aforesaid, feloniously and traitorously did practice and endeavour to withdraw the said *T. W.* from the Religion under our said Lord the King, within this Realm most happily and excellently established, to the *Romish* Religion, against the Form of the Statute in that Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By Stat. 23 *Eliz. c. 1. Sect. 2.* it is enacted, That
all Persons whatsoever, which have or shall have, or shall pretend to have Power, or shall by any Ways or Means put in practice to absolve, persuade or withdraw any of the Queen's Subjects, or any within her Majesty's Realms and Dominions, from their natural Obedience to her Majesty: or to withdraw them for that Intent, from the Religion by her Majesty's Authority established within her Majesty's Dominions, to the Romish Religion, or to move them, or any of them, to promise any Obedience to any pretended Authority of the See of Rome, or of any other Prince, State or Potentate, to be had or used within her Majesty's Dominions, or shall do any Overt-act to that Intent or purpose; shall be to all Intents adjudged to be Traitors, and being thereof lawfully convicted shall have Judgment, suffer and forfeit, as in Case of High-Treason. And if any Person shall by any Means be willingly absolved or withdrawn, as aforesaid, or willingly be reconciled, or shall promise any Obedience to any such pretended Authority, Prince, State or Potentate, as is aforesaid,

Treason to withdraw any from the Religion established, to the *Romish* Religion.

It shall be Treason to be reconciled, or withdrawn to the *Romish* Religion.

aforesaid, that then every such Person, their Procurors and Counsellors thereunto, being thereof lawfully convicted, shall suffer and forfeit as in Cases of High-Treason. That all and every Person and Persons, that shall wittingly be Aiders or Maintainers of such Persons so offending as aforesaid, knowing the same, or which shall conceal any Offence as aforesaid, and shall not within twenty Days at the farthest, after such Person's Knowledge of such Offence, disclose the same to some Justice of the Peace, or other High Officer, shall be taken, tried and judged, and shall suffer and forfeit, as Offenders in Misprision of Treason.

The Penalty of Aiders, Maintainers and Concealers.

Note, This Statute does not mention the Queen's Heirs and Successors.

By the Stat. 3. Jac. 1. c. 4. If any Persons shall put in Practice to absolve, persuade, or withdraw any of the King's Subjects from their natural Obedience to the King; or to reconcile them to the Pope and See of Rome, or to move them, or any of them to promise Obedience to any pretended Authority to the See of Rome, or any other Prince, State or Potentate; That then every such Person, their Procurors, Counsellors, Aiders and Maintainers, knowing the same, shall be to all Intents adjudged Traitors, and suffer and forfeit as in Cases of High-Treason.

Putting in Practice to absolve or withdraw any from their Obedience, or to reconcile them to the Pope and See of Rome.

And if any such Persons shall be willingly absolved, or withdrawn as aforesaid, or shall promise Obedience to any such pretended Authority, &c. as aforesaid, every such Person or Persons, their Procurors and Counsellors, Aiders and Maintainers, knowing the same, shall be adjudged Traitors, and suffer and forfeit, as in Cases of High-Treason.

Being withdrawn, or reconciled.

An Indictment of Petty Treason against a Woman poisoning her Husband.

Surry. **T**HE Jurors for our Lord the King upon their Oath present, That *A. B.* late of the Parish of *Croydon*, in the County of *Surry*, Widow, late Wife of *J. B.* late of the same Place, Yeoman, deceased, not having the Fear of God before her Eyes, but being moved and seduced by the Instigation of the Devil, and of her Malice aforethought, contriving and intending him the said *J. B.* her said late Husband to deprive of his Life, and him feloniously and traiterously to kill and murder, on the eleventh Day of *January*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, feloniously, traiterously, wilfully, and of her Malice aforethought, did mix and mingle a great Quantity of mortal Poison, called *Arsenick*, into a Quantity of Water-Gruel; and that she the said *A. B.* then and there, feloniously, traiterously, wilfully, and of her Malice aforethought, did give and deliver the said Water-Gruel, so mixt with the said Poison as aforesaid, to the said *J. B.* her said then Husband, to be drank by him the said *J. B.* (she the said *A. B.* then and there well knowing the said *Arsenick* to be a mortal Poison) and the said *J. B.* by the Persuasion and Instigation of the said *A.* the said Water-Gruel, so mixt with Poison as aforesaid (not knowing the same) did then and there drink, and swallow down into his Body; by which Drinking and Swallowing of the said Water-Gruel, so mixt with Poison as aforesaid, the said *J. B.* then and there became sick and greatly distempered in his

I

Body,

Body, of which Sickness and Distemper, he the said *J. B.* from the said eleventh Day of *January*, in the Year aforesaid, until the twelfth Day of the same Month of *January*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did languish, and languishing did live, on which said twelfth Day of *January*, in the Year aforesaid, in the County aforesaid, of the said Sickness, occasioned by the Drinking of the Water-Gruel, so mixt with Poison as aforesaid, died: And so the Jurors aforesaid, upon their Oath aforesaid, do say, that the said *A. B.* the aforesaid *T. B.* her said late Husband, in Manner and Form aforesaid, feloniously, traiterously, wilfully, and of her Malice aforethought, did poison, kill and murder, against the Peace of our said Lord the King, his Crown and Dignity.

At Common Law, not only the Offences specified in the Stat. 25. Ed. 3. Stat. 3. c. 2. but many others also were deemed Petty Treasons, which are not so at this Day; as Piracy by a Subject; Discovery of the King's Counsel by one of the Grand Jury; an Attempt by a Wife to kill her Husband, &c. but by the Stat. 25 Ed. 3. Stat. 5. c. 2. no Offence shall be adjudged Petty Treason, except in the following Instances:

1. *Where a Servant kills his Master.*
2. *Where a Wife kills her Husband.*
3. *Where an ecclesiastical Man, secular or religious, kills his Prelate, to whom he owes Obedience.*

The Murder of a Mistress, or of a Master's Wife, has been adjudged Petty Treason within this Statute, for notwithstanding the Persons slain can in neither of these Cases come under the Word Master, yet they are clearly within the Meaning thereof, being used here to signify any Person, to whom another stands related as a Servant.

516 *Precedents of Indictments, &c.*

All Procurers, Aiders or Abettors in any of these Offences are punishable within the meaning of this Act, in the same Manner as it was before; for the plain Intent of the Statute is only to restrain Proceedings against other Crimes, as Petty Treasons, but no way to alter the Law as to these.

*Persons accused of Petty Treason, shall be construed to be either Not Guilty at all, or Principal, or Accessary, according to the known Rules of the Law in other Cases; and from hence it follows, that if the Fact appears to have been done upon a sudden Falling-out, or in the Party's necessary Self-defence, &c. it cannot be Petty Treason; and vice versa, generally where-ever the Circumstances are such, as will make the killing of a Stranger by a Stranger, Murder, they make the killing of a Husband, Master, &c. Petty Treason: Yet it hath been adjudged, that if a Wife or Servant procure a Stranger to kill the Husband or Master, in the Absence of such Wife or Servant, neither the Procurer nor Actor are guilty of Petty Treason, but of Murder only; because it is an allowed Maxim, That the Offence of an Accessary can never be of a higher Kind than that of the Principal; but it seems clear, that if the Wife or Servant be either actually present when the Crime is done, or present only in Judgment of Law, as being in the same House, but not in the same Room, (in which Case, the Hopes of their immediate Assistance encourages and emboldens the Murderer to commit the Fact, which otherwise, perhaps, he would not have dared to do, and makes them guilty in the same Degree, as if they had actually stood by with their Swords drawn, ready to second the Villany) such Wife or Servant, being Principals as much as Strangers, are guilty of Petty-Treason, and the Stranger of Murder; but it is said, that if a Wife procure a Servant to kill the Husband, both are guilty of Petty-Treason: And even if a Stranger procure a Wife or Servant to kill
the*

the Husband or Master, it seems that he may be indicted as Accessary to Petty Treason. See Hawk. Pl. Cr. 2. and his Quotations upon Petty Treason.

T U R N P I K E S.

*An Indictment of Felony for cutting down
and destroying a Turnpike-Gate.*

THE Jurors for our Lord the King upon their Oath present, That J. J. late of the Parish of in the County of Labourer, and J. B. late of the Parish aforesaid, in the County aforesaid, Labourer, and divers other Persons to the Jurors aforesaid yet unknown, being wicked and malicious Persons, and not regarding the Laws and Statutes of this Realm, nor the Pains and Penalties in the same contained, after the fifteenth Day of *May*, in the Year of our Lord One thousand seven hundred and thirty-five, to wit, on the fourteenth Day of *January*, in the tenth Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, a certain Turnpike-Gate there (set up and erected to prevent Passengers from passing by without paying the Toll laid and directed to be paid by an Act of Parliament, made in the Year of the Reign of entitled, *An Act, &c.* (*Recite the Title of the Act*) with Force and Arms, wilfully, maliciously and feloniously, did cut down and destroy, against the Form of the Statute in that Case made and provided, to the evil Example of all others in the like Case offending, and against the Peace of our said Lord the King, his Crown and Dignity.

L 1-3

By

518 *Precedents of Indictments, &c.*

By the Stat. 8 Geo. 2. c. 20. it is enacted, That if any Person or Persons whatever, after the fifteenth Day of May, in the Year of our Lord 1735, by Day or by Night, wilfully or maliciously pull down, cut up, pluck up, throw down, level, or otherwise destroy any Turnpike-Gate or Turnpike Gates, or any Post or Posts, Rail or Rails, Wall or Walls, or any Chain, Bar, or other Fence or Fences belonging to any such Turnpike Gate or Turnpike-Gates, or any other Chain, Bar, or Fence of any Kind whatsoever, set up or erected, or hereafter to be set up or erected, to prevent Passengers from passing by without paying any Toll, laid and directed to be paid by any Act or Acts of Parliament already made, or hereafter to be made for that Purpose, or any House or Houses erected, or to be erected, for the Use of any such Turnpike-Gate, &c. or any other Fence or Fences, or any Lock, Sluice, Floodgate, or other Works, or any navigable River, erected, or to be erected by Authority of Parliament; or forcibly rescue any Person or Persons, being lawfully in Custody of any Officer, or other Person, for any of the Offences before-mentioned; that then, and in any of the said Cases, every Person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death, as in Cases of Felony, without Benefit of Clergy.

Note, There is no Time limited to prosecute.

Attainder in this Act not to work Corruption of Blood, or Forfeiture, &c.

This Act continues five Years from May 15, 1735, and from thence to the End of the next Session of Parliament, and is continued to the 1st of June 1745, and from thence to the End of the next Sessions of Parliament, and by the Stat. 20. Geo. 2. c. 47. further continued to June, 1, 1754.

USURY.

U S U R Y.

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That, *H. V.* late of the Parish of *St. James, Clerkenwell*, in the County of *Middlesex*, Gentleman, after the twenty-ninth Day of *September*, in the Year of our Lord One thousand seven hundred and sixty-one to wit, on the sixteenth Day of *October*, in the first Year of the Reign of our Sovereign Lord *George* the Third, King of *Great Britain, &c.* at the Parish aforesaid, in the County aforesaid, did lend to one *B. G.* the Sum of One hundred Pounds of lawful Money of *Great Britain*; and the said *B. G.* for securing the Repayment of the said Sum of One hundred Pounds, with lawful Interest for the same, to the said *H. V.* or his Order, he the said *B. G.* afterwards, to wit, the same sixteenth Day of *October*, in the Year aforesaid, at the Parish aforesaid, in the County aforesaid, did give and deliver to the said *H. V.* a certain Promissory Note, subscribed with the proper Hand-Writing of him the said *B. G.* bearing Date the Day and Year aforesaid; by which said Note, the said *B. G.* did promise to pay to the said *H. V.* or his Order, the said Sum of One hundred Pounds, with lawful Interest for the same, six Months after the Date of the same Note; and the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *H. V.* afterwards, to wit, on the twenty-second Day of *April*, in the said first Year of the Reign of our said Lord the King, at the said Parish of *St. James, Clerkenwell*, in the said County of *Middlesex*, unlawfully, unjustly, and corruptly did receive and take, of and from the said *B. G.* the Sum of Four

L 1 4 Pounds

520 **Precedents of Indictments, &c.**

Pounds and fifteen Shillings of lawful Money of *Great Britain*, of the Monies of him the said *B. G.* for the forbearing and giving Day of Payment of the said Sum of One hundred Pounds from the said sixteenth Day of *October*, in the Year aforesaid, until the said twenty-second Day of *April*, in the Year aforesaid, which said Sum of Four Pounds and fifteen Shillings, so as aforesaid received and taken by the said *H. V.* for the forbearing and giving Day of Payment of the said Sum of One hundred Pounds from the said sixteenth Day of *October*, in the Year aforesaid, until the said twenty-second Day of *April*, in the Year aforesaid, did exceed the Rate of five Pounds for the Loan of One hundred Pounds for a Year, to the great Damage of the said *B. G.* against the Form of the Statute in that Case lately made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

All undue Advantages taken by a Lender against a Borrower, come under the Notion of Usury, whether there were any Contract in Relation thereto, or not, as where one in Possession of Land, made over to him for the Security of a certain Debt, retains his Possession after he hath received all that is due from the Profits of the Land.

2 Rol. Ab. 801. *But it hath been resolved, that an*
 pl. 2, 3. *Agreement to double the Sum borrow-*
ed, or other Penalty, on the Non-
payment of the principal Debt at a certain Day, is
not usurious, because it is in the Pow-
 2 Inst. 89. *er of the Borrower wholly to discharge*
himself, by repaying the Principal,
according to the Bargain.

Anciently

Anciently it was holden to be absolutely unlawful for any Christian to take any Kind of Usury, and that whosoever was guilty of it, was liable to be punished by the Censures of the Church in his Lifetime; and that if, after Death, any one was found to have been an Usurer, while living, all his Chattels were forfeited to the King, and his Lands escheated to the Lord of the Fee.

3 Inst. 151.
2 Rol. Ab. 800.
801.
2 Inst. 506.
507.
Palmer, 293,
294.

Formerly all kinds of Usury seemed contrary to good Conscience, by the Opinion of the Makers of several Acts of Parliament, viz. 5 Ed. 6. c. 20. 13 Eliz. c. 8. and 21 Jac. 1. c. 17.

And agreeably hereto it seemeth formerly to have been the general Opinion, that no Action could have been maintained on any Promise to pay any kind of Use for the Forbearance of Money, because all such Contracts were thought to be unlawful, and consequently void.

2 Rol. Ab. 801.
1 Rol. Ab. 18.
pl. 14, 15.

But it seems to be generally agreed at this Day, that the taking of reasonable Interest for the Use of Money, is in itself lawful, and consequently that a Covenant or Promise to pay it, in Consideration of the Forbearance of a Debt, will maintain an Action; for why should not one who has an Estate in Money be as well allowed to make a fair Profit of it as another who hath an Estate in Land? And what Reason can there be, that the Lender of Money should not as well make an Advantage of it as the Borrower? Neither do the Passages in the Mosaical Law, which are generally urged against the Lawfulness of all Usury, if fully considered, so much prove the Unlawfulness of it; for if all Usury were against moral Law, why should it not be as

1 Hawk. P. C.
cap. 81.

Exod. 22. ver.
25.
Levit. 25. ver.
36, 37.
Deut. 23. ver.
19, 20.

much

522 Precedents of Indictments, &c.

much so, in Respect of Foreigners, of whom the Jews were expressly allowed to take it, as in Respect of those of the same Nation, of whom alone they were forbidden to receive it? From whence it seems clearly to follow, that the Prohibition of it to that People was merely political, and consequently doth not extend to any other Nation.

Usury is thus restrained by the Stat. 12 Ann. c. 16.

“ That no Person whatsoever shall, upon any Contract which shall be made from and after the twenty-ninth Day of *September*, 1714, take, directly or indirectly, for Loan of any Money, Wares, Merchandize, or other Commodities whatsoever, above the Value of five Pounds in the Hundred for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Time; and that all Bonds, Contracts, and Assurances whatsoever, made after the Time aforesaid for Payment of any Principal or Money to be lent, or covenanted to be performed, upon or for any Usury, whereupon or whereby there shall be reserved or taken above the Rate of five Pounds in the Hundred, as aforesaid, shall be utterly void; and that all and every Person or Persons whatsoever, which shall after the Time aforesaid, upon any Contract to be made after the said twenty-ninth Day of *September*, take, accept, and receive by Way or Means of any corrupt Bargain, Loan, Exchange, Chevizance, Shift, or Interest of any Wares, Merchandizes, or other Thing or Things whatsoever, or by any deceitful Way or Means, or by any Covin, Engine, or deceitful Conveyance, for the forbearing or giving Day of Payment for one whole Year, of and for their Money, or other Thing, above the Sum of Five Pounds, for the forbearing of one hundred Pounds for a Year, and so after that Rate for a greater or lesser Sum, or for a longer or shorter Term, shall forfeit

“feit and lose for every such Offence, the treble
 “Value of the Money, Wares, Merchandizes,
 “and other Things, so lent, bargained, exchanged,
 “or shifted.”

*And it is farther enacted by the said Statute, “That
 “every Scrivener, Broker, Solicitor, and Driver
 “of Bargains for Contracts, who shall, after the
 “said nine and twentieth Day of September, take
 “or receive, directly or indirectly, any Sum or
 “Sums of Money, or other Reward or Thing,
 “for Brokage, Soliciting, driving, or procuring
 “the Loan, or forbearing of any Sum or Sums of
 “Money, over and above the Rate or Value of
 “five Shillings for the Loan, or forbearing of one
 “hundred Pounds for a Year, and so rateably; or
 “above twelve Pence, over and above the Stamp-
 “Duties, for making or renewing of the Bond or
 “Bill for Loan, or forbearing thereof, or for any
 “Counter-bond or Bill concerning the same, shall
 “forfeit for every such Offence, twenty Pounds,
 “with Costs of Suit, and suffer Imprisonment for
 “half a Year; the one Moiety of all which For-
 “feitures shall be to the Queen, the other to him
 “that will sue for the same, in the same County
 “where the several Offences are committed, &c.”*

*A Contract made before the Statute, is no Way with-
 in the Meaning of it, and therefore it is still lawful
 to receive six Pounds per Cent. in respect of any such
 Contract; for the Stat. 12 Car 2. c. 13. allows six
 Pounds per Cent.*

*The Receipt of a higher Interest than is allowed by
 the Statute, by Virtue of an Agree-
 ment, subsequent to the first Contract,
 does not avoid an Assurance fairly
 made, and agreeable to the Statute,
 but only subjects the Party to the For-
 feiture of treble Value; for the Words
 are: “That all Assurances for the*

1 Mod. 69.

3 Keb. 142.

2 Mod. 307.

1 Saund. 294.

Raym. 196.

2 Keb. 225.

690.

1 Bulf. 17.

“Pay-

§24 Precedents of Indictments, &c.

“ Payment of any Principal, &c. whereupon or
 “ whereby there shall be reserved or taken above
 “ the Rate of five Pounds in the Hundred, &c.
 “ shall be utterly void.”

*In an Assurance for the Payment of fifty Shillings,
 for the Use of a hundred Pounds for
 Noy 37. six Months, the Computation shall be
 by Calendar, and not by Lunar Months, by the latter
 the Interest would exceed the Rate allowed by the
 Statute.*

*The Receipt of Interest before the Time when it is
 Yel. 30, 31. in Strictness due, being voluntarily
 Noy, 171. paid by the Debtor for the greater
 2 Keb. 690. Convenience of the Creditor, or for
 any other such like Consideration, without any Man-
 ner of corrupt Practice or any previous Agreement
 of this Kind at the making of the first Contract, does
 not make the Party liable to the Forfeiture of the treble
 Value.*

*The Grant of an Annuity for Lives, not only ex-
 ceeding the Rate allowed for Interest,
 Cro. Jac. 253. but also exceeding the known Propor-
 Noy, 151. tion for Contracts of this Kind, in
 2 Levinz. 7, 8. Consideration of a certain Sum of Mo-
 2 Rol. Ab. 782. ney, is not within the Meaning of the Statute, unless
 there were some underhand Bargain for the Security
 of the Repayment of the Principal or Consideration
 Money.*

*No Contract is usurious, by which the Lender runs
 the Hazard of losing all his Money,
 Cro. Jac. 208, both Principal and Interest: As where
 209, 508, 509. on the Loan of a certain Sum for a
 1 Keb. 539, 711. Year, for the victualling of a Ship, it
 2 Roll. Rep. 48. is agreed, That if the Ship return, the Lender shall
 have so many thousand Fishes at such a Rate, which
 exceeds the Interest allowed by the Statute; and if
 the Ship never return, or if it perish by unavoidable
 Casualties*

Casualties of Sea, Fire, or Enemies, that then he shall have nothing: Or, whereon a Loan of thirty Pounds, a Bond is given for the Payment of One hundred Pounds, on the Marriage of a Daughter of one of the Parties; provided, that if either of them should die before that, then nothing should be paid: But it is clear, that if the Interest only be hazarded on such a Contract, and the whole Principal secured, the whole is Usurious. Also it hath been resolved, that an Agreement to pay more than lawful Interest for the Loan of a certain Sum at such a Day, if A. B. shall then be alive, and if he shall be dead, then to pay such Sum which is less than the Principal, is void by the Statute; for if such a Contingency would accept the Case out of the Statute, by the same Reason twenty Lives might be added, and the Statute wholly evaded.

1 Lev. 54.
1 Sid. 27.

3 Keb. 304.
Cro. Eliz. 741.

2 Rol. Rep. 48.
Cro. Jac. 508.

5 Co. 70.
Moore, 397.
Cro. Eliz. 642;
643, 741.
Lutw. 468,
469.

An Assurance made in Pursuance of a fair Agreement for such Interest as is allowed by the Statute, shall not be avoided by the Fault of the Scrivener, who draws it up in such a Manner as to bring it within the express Letter of the Statute: As where the Parties agree, that five Pounds shall be paid for the Loan of One hundred Pounds for a Year, and the Scrivener, in drawing the Bond for it, doth, without the Knowledge of the Parties, who are illiterate Persons, make the Bond payable in half a Year: Or, whereon the fair Loan of One hundred Pounds agreed to be paid with common Interest, a Mortgage is made for the Hundred Pound, with a Proviso, that it shall be made void on Payment of One hundred and five

Cro. Jac. 677,
678.
2 Rol. Rep. 414;
415.
Hetley, 11.
1 Jon. 396.
Cro. Car. 501.
2 Vent. 83.

526 Precedents of Indictments, &c.

five Pounds at the End of the Year, without any Covenant for the Mortgager to take the Profits till Default be made of Payment, so that in Striçtness the Morgagee is intitled both to the Interest and Profits.

2 Mod. 307.

2 Rol. Ab. 793,
798.

A Contract reserving to the Lender a greater Advantage than is allowed by the Statute, is equally within the Meaning of it, whether the whole be reserved by Way of Interest or in Part only under that Name, and in Part by Way of Rent for a House, let at a Rate plainly exceeding the known Value.

Cro. Jac. 440.

He, who hath agreed to pay Money upon an Usurious Contract, shall not be admitted to give Evidence upon an Information against the Usurer, unless he hath paid off the whole Debt; for by such Means, a Man might avoid his own Act and Deed.

2 Rol. Ab. 685.
Raym. 191.

An Indictment on the Statute of Usury setteth forth, That the Defendant took more than five Pounds in the Hundred, is not good, without shewing in Particular how much. See Stat. 30 Geo. 2. c. 24. Stra. 1243.

W I N D O W S.

Indictment for breaking Windows of a Dwelling-house.

Middlesex. **T**HE Jurors, &c. present, That *A. B.* late of the Parish of *St. Leonard, Shoreditch*, in the County of *Middlesex*, Labourer, on the Day of in the Year of the Reign of our Sovereign Lord *George the Third, King of Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, the Glass-Windows of the Dwelling
ing

ling-house of *E. L.* there situate, maliciously, unlawfully, and injuriously did break and destroy, and other Wrongs to the said *E. L.* then and there did, to the great Damage of the said *E. L.* and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 34 Edw. 3. c. 1. The Justices of Peace have Power to restrain Offenders and Rioters, and to arrest and chastise them according to their Offence, and to cause them to be imprisoned and duly punished; and,

By the Stat. 27. Rich. 2. c. 8. assoon as the Sheriff, and other the King's Ministers shall hear of a Riot, Rout, or other Assembly, against the Peace, they, with the Power of the Country, shall apprehend such Offenders, and put them in Prison until delivered by Law.

The Stat. 1 Geo. 1. c. 5. is more severe against Rioters, if they meet to the Number of Twelve, adjudging them to be Felons, without Benefit of the Clergy, if they do not disperse within an Hour after Proclamation, &c. See Wood's Inst. 430.

And by the Common Law, Offences of this Nature are punishable by Fine and Imprisonment, &c. Wood's Inst. 428.

W O M E N.

An Indictment of Felony for taking a Woman against her Will, and marrying her; (she having Substance in moveable Goods, Lands, and Tenements, &c. and being her Father's Heir.)

Middlesex. **T**HE Jurors for our Lord the King upon their Oath present, That *J. C.*
late

528 *Precedents of Indictments, &c.*

late of the Parish of *St. James*, within the Liberty of *Westminster*, in the County of *Middlesex*, Gent. *A. M.* late of the same, Labourer, and *J. J.* late of the same, Esq; on the fourteenth Day of *November*, in the first Year of the Reign of our Sovereign Lord *George* the Third, now King of *Great Britain, &c.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, in and upon one *M. W.* Spinster, then and yet being under the Age of fourteen Years, and a Maid, and only Daughter and Heir of *P. W.* Esq; then being deceased, and she the said *M. W.* then and there having Substance in moveable Goods, of the Value of one thousand Pounds of lawful Money of *Great Britain*, and in Lands and Tenements, to the Value of fifteen hundred Pounds by the Year of like lawful Money, and in the Peace of God and our said Lord the King then and there being, violently did make an Assault, and her the said *M.* then and there did put in great Danger of her Life, and her the said *M.* with Force and Arms, at the Parish aforesaid, in the County aforesaid, unlawfully, feloniously, and against the Will of her the said *M.* violently take, force, and convey away, with Intention that he the said *J. C.* for Lucre, and the Sake of her Substance, feloniously should marry, and have the said *M.* to Wife; and that the said *J. C.* afterwards, to wit, on the said fourteenth Day of *November*, in the Year aforesaid, at the Parish of *St. Margaret, Westminster*, in the County aforesaid, by the Assent, Consent, Procurement, and Abetment of the said *A. M. J. J.* and of *C.* the Wife of *F. C.* late of the Parish of *St. Margaret, Westminster* aforesaid, in the County aforesaid, Gent. and *W. C.* late of the same Parish and County, Clerk, with Force and Arms, at the Parish last above mentioned, in the County aforesaid, feloniously,

ously, and for Lucre of the said Substance of the said *M. W.* did marry, and had the said *M. W.* to Wife, to the great Displeasure of Almighty God, to the great Disparagement of the said *M.* and the utter Heaviness and Discomfort of all her Relations and Friends; against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity. And the Jurors aforesaid, upon their Oath aforesaid, do further present, That the said *A. M. J. J. C.* the Wife of *F. C.* and *W. C.* on the said fourteenth Day of *November*, in the Year aforesaid, at the Parish of *St. Margaret, Westminster*, aforesaid, in the said County of *Middlesex*, with Force and Arms, knowingly and feloniously were assisting, aiding, procuring, assenting, abetting and maintaining the aforesaid *J. C.* in doing and committing the Felony aforesaid, in Form aforesaid, against the Form of the Statute in such Case made and provided, and against the Peace of our said Lord the King, his Crown and Dignity.

By the Stat. 3 H. 7. c. 2. Maidens, Widows, and Wives, having Substance in moveable Goods, Lands, or Tenements, or being Heirs apparent to their Ancestors, what Person or Persons soever, taking such Woman against her Will, for Lucre of the Substance, marrying them, and the Procurors, Abettors, and Receivers of such Women so taken away, are judged principal Felons.

This Act does not extend to any Person taking any Woman, only claiming her as his Ward or Bond-woman.

By the Stat. 39 Eliz. c. 9. Clergy is taken away from all such Persons who shall offend against the

530 **Precedents of Indictments, &c.**

*Stat. 3 H. 7. c. 2. and such as shall stand mute, &c.
or challenge above twenty.*

*This Act extends only to such Persons as shall be
Principals, or Procurors, or Accessaries before such
Offence committed.*

*Note, It is a perpetual Law, and no Time limited
to prosecute.*

T H E

THE
CLERK of ASSISE's
CIRCUIT COMPANION.

The Office of a Judge's Cryer on the Circuit.

At the opening the Court.

O Yes three
Times. **M**Y Lords the King's Justices
do strictly Charge and Com-
mand all Manner of Persons to keep Silence whilst
his Majesty's Commissions of Assise and Nisi Prius,
Oyer and Terminer, and General Gaol Delivery,
for this County of *H.* are openly read, upon Pain
of Imprisonment.

Essoigns.

O YES. If any one will be Essoigned in Af-
fise of Novel Disseisin, Affise of *Mort-*
dancester, Certificate of Affise, in Juris Utrum, or
Attaint, Let him come forth, and he shall be heard.

Sheriffs Returns.

O YES. Sheriff of this County of *A.* return
the several Precepts and Writs of Af-
fise, and Nisi Prius to you directed, returnable here
M m 2 this

32 The CLERK of ASSISE's

this Day, that my Lords the King's Justices may proceed thereon.

Entry of Writs and Records.

O YES. All Attorneys and others that have any Writs of Assise, or Records of Nisi Prius, or Writs of the same, Let him enter them with the Marshal forthwith, that my Lords the King's Justices may proceed thereon, (if ordered) otherwise, Ne recipiatur, will be entered.

Adjournment.

O YES. All Manner of Persons that have any thing further to do before my Lords the King's Justices of Assise and Nisi Prius, Oyer and Terminer, and General Gaol Delivery, for this County of *A.* (or City of *A.* and County of the same City or Town of, &c.) may depart hence at this Time, and give their Attendance To-morrow Morning at o'Clock, or this Afternoon at , &c.

Calling of the Justices of the Peace.

O YES. All Justices of Peace for this County of *A.* answer to your Names, and save your Fines.

But for *Yorkshire*, you say, East Riding, West Riding, or North Riding.

O YES. All Mayors of Corporations and Burroughs within this County, answer to your Names, and save your Fines.

O YES. All Coroners of our Sovereign Lord the King for this County, answer to your Names, and save your Fines.

O YES.

CIRCUIT COMPANION. 533

O YES. All Stewards of Leets and Liberties, within this County, answer to your Names, and save your Fines.

O YES. All Chief Constables of Hundreds and Liberties within this County, answer to your Names, and save your Fines.

O YES. All Bailiffs of Hundreds and Liberties within this County, answer to your Names, and save your Fines.

Calling the Grand Jury.

O YES. You good Men that are returned to enquire for our Sovereign Lord the King, and the Body of this County of *A.* answer to your Names, and save your Fines.

Then the Cryer calls them by their Names with their Addition; and if any one does not appear upon second calling, He says, or you lose one hundred Shillings in Issue.

Then the Marshal or Cryer swears them; and after all are sworn, the Cryer counts them, and makes this Proclamation, *viz.*

O YES. My Lords the King's Justices do strictly charge and command all Manner of Persons to keep Silence whilst his Majesty's Proclamation against Profaneness and Immorality be openly read, upon Pain of Imprisonment.

The Foreman of the Grand Jury's Oath.

You, as Foreman of this Grand Inquest, for the Body of this County of *A.* shall diligently enquire, and true Presentment make of all such Matters and

534 The CLERK of ASSISE's

Things, as shall be given you in Charge: The King's Council, your Fellows, and your own, you shall keep secret: You shall present no one for Envy, Hatred, or Malice; neither shall you have any one unpresented for Fee, Favour or Affection, Reward or Hope thereof, but you shall present all Things truly as they come to your Knowledge, according to the best of your Understanding. So help you God.

The same Oath your Foreman has taken on his Part, you and every of you, shall truly observe and keep on your Part. So help, &c.

Before the Charge given.

O YES. My Lords the King's Justices do strictly Charge and Command all Manner of Persons to keep Silence whilst the Charge is given to the Grand Inquest, upon Pain of Imprisonment.

Justices, &c. to deliver Recognizances.

O YES. All Justices of the Peace, Mayors, Coroners, Stewards of Leets and Liberties, and other Officers that have taken any Inquisition or Recognizance, Let them deliver them into Court forthwith, that my Lords the King's Justices may proceed thereon.

To prefer Indictments.

O YES. All Manner of Persons that are bound by Recognizance to prefer any Bills of Indictment against any Prisoners in the Gaol of this County, or others, Let them come forth and prosecute, or they will forfeit their Recognizance.

Go to the Clerk
of Indictment's
Lodgings.

Calling

CIRCUIT COMPANION. 535

Calling Profecutors.

A. B. come forth and profecute, and give Evidence againſt *E. D.* or you forfeit your Recognizance.

Calling Perfons out upon Bail.

A. B. of the Pariſh of, &c. come forth, ſave you and your Bail, or you forfeit your Recognizance.

Calling Bail to bring forth Principals.

A. B. and *C. D.* (with their Additions) bring forth the Body of *E. E.* whom you have undertook to appear here this Day, or you forfeit your Recognizance.

Calling Common Jury.

O Y E S. You good Men that are impannelled to enquire between our Sovereign Lord the King, and the Priſoners, at the Bar (if by Adjournment) and were adjourned to this Time and Place, answer to your Names, and ſave your Fines.

Information for the King againſt the Priſoner.

O Y E S. If any one can inform my Lords the King's Juſtices, King's Serjeant, or Attorney General, before this Inqueſt be now taken between our Sovereign Lord the King, and the Priſoner at the Bar, of any Treafons, Murders, Felonies, or other Miſdemeanours committed, or done by the Priſoner at the Bar, Let him come forth, and he ſhall be heard; for they now ſtand at the Bar for their Deliverance. And all others that are bound by Recognizance, to give Evidence againſt the Priſoners at the Bar, Let them come

536 The CLERK of ASSISE's

forth, and give their Evidence, or else they forfeit their Recognizance.

Proclamation before Judgment given.

O YES. My Lords the King's Justices do strictly Charge and Command all Manner of Persons to keep Silence, whilst Sentence of Death is passing against the Prisoner at the Bar, upon Pain of Imprisonment.

To discharge Recognizance.

O YES. If any one can ought say why *A*, *B.* should stand any longer bound, Let them come forth, and they shall be heard, otherwise the Court does discharge him paying his Fees.

General Adjournment.

O YES. All Manner of Persons that have any Thing further to do before my Lords the King's Justices of Assise and Nisi Prius, Oyer and Terminer, and general Gaol Delivery for this County of *B.* may depart hence at this Time, and give their Attendance here again at o'Clock, &c. or at my Lord's Lodgings, or in the other Court, as it shall happen.

Oath of high Constables upon Presentment.

You shall swear that such of these Presentments, as are your own, are true, and such as you received from the Hands of the Petty Constables are, as you received them, without Alteration.

Oath of Jury of Life and Death.

You shall well and truly try, and true Deliverance make, between our Sovereign Lord the King, and

CIRCUIT COMPANION. 537

and the Prisoner at the Bar, whom you shall have in Charge, and true Verdict give, according to your Evidence. So help, &c.

Oath upon a Traverse tried.

You shall well and truly try the Issue of this Traverse, between our Sovereign Lord the King, and *A. B.* and a true Verdict give, according to your Evidence, &c.

The Matron's Oath.

You, as Forematron of this Jury, shall swear, that you will search and try the Prisoner at the Bar, whether she be with Child of a quick Child, and thereof a true Verdict give, according to your Skill and Understanding, &c.

One by one.

The same Oath your Forematron hath taken on her Part, you shall well and truly observe, and keep on your Part, &c.

Swearing Crown Witnesses.

The Evidence you shall give to the Court and Jury sworn, between our Sovereign Lord the King, and the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth, &c.

Swearing Witnesses upon a Traverse.

The Evidence you shall give to the Court and Jury sworn, touching the Issue of this Traverse, shall be the Truth, the whole Truth, and nothing but the Truth.

Swearing Bailiff to attend the Grand Jury.

You shall swear that you will diligently attend the Grand Inquest during the Assises, and carefully deliver

538 The CLERK of ASSISE's

deliver to them all such Bills of Indictments, or other Things as shall be sent them by the Court, without Alteration. So help, &c.

The Oath of a Bailiff, when any goes out.

You shall swear you will keep every Person sworn of this Jury together in some private and convenient Place, without Drink, Lodging, or Fire (Candle-light excepted ;) you shall not suffer any Person to speak to them, neither shall you speak to them yourself, unless it be to ask them whether they agreed upon their Verdict, without Leave of the Court, &c.

A Proclamation for Silence to proceed to Business.

O YES. My Lords the King's Justices do strictly Charge and Command all Manner of Persons to keep Silence, for they will now proceed to the Pleas of the Crown, and Arraignment of Prisoners, upon their Lives and Deaths, and all those that are bound by Recognizance to give Evidence against any of the Prisoners, which shall be at the Bar, Let them come forth, and give their Evidence, or they will forfeit their Recognizance.

Nisi Prius.

O YES. **A**LL Manner of Persons that have any Thing further to do before my Lords the King's Justices of Assise and Nisi Prius, Oyer and Terminer, and General Gaol Delivery for the County of *A*. Draw near and give your Attendance.

Calling

CIRCUIT COMPANION. 539

Calling Nisi Prius Jury.

O YES. You good Men of Nisi Prius summoned to appear here this Day, and try this Issue between *A. B.* Plaintiff, and *C. D.* Defendant, answer to your Names, and save your Issues (if ordered) or you lose a Mark in Issues.

If there be not a full Jury say,
You have no Inquest, who prays a Tales.

Then call the Defendant three Times thus :
A. B. come forth or this Inquest shall be taken by your Default.

Then swear the Jury.

You shall well and truly try the Issue of this Nisi Prius between the Parties, according to your Evidence, &c.

Nisi Prius Evidence.

The Evidence you shall give to the Court and the Jury sworn, touching the Issue of this Nisi Prius, shall be the Truth, the whole Truth, and nothing but the Truth, &c.

When the Jury is agreed upon their Verdict, call the Plaintiff three Times, thus :

A. B. come forth, or you lose your Writ of Nisi Prius.

If the Defendant, in Ejectment, confess Lease, Entry, and Ouster, then call the Plaintiff three Times, thus :

A. B. come forth in your proper Person, or by your Attorney, and confess Lease, Entry, and Ouster, forthwith two Shillings.

Upon

540 The CLERK of ASSISE's

Upon Information tried, this Proclamation.

O YES. If any one can inform my Lords the King's Justices, the King's Serjeant, Attorney General, before this Inquest be taken, between our Sovereign Lord the King and *A. B.* of any Misdemeanour committed or done, Let him come forth, and he shall be heard.

If a Writ of Right.

You good Men of a Writ of Right, summoned to appear here this Day, and try the Issue, between *A. B.* Tenant, answer to your Names, and save your Issues.

Calling an Assise.

You good Men Recognitors impannelled to try the Matter of this Assise, answer to your Names, and save your Fines.

A. B. Tenant come forth, or this Assise will be taken, by your Default.

You shall well and truly try the Matter of this Assise, between the Parties, according to your Evidence, &c.

You good Men Recognitors in this Assise, that have appeared, may depart at this Time, and give their Attendance, &c.

All Manner of Persons that are concerned in the Assise of Novel Disseisin, between *A. B.* Demander, and *C. D.* Tenant of a Freehold, Tenant in *B.* in this County, and were adjourned over to this House, Draw near, and give your Attendance.

Oath

Oath to Witnesses upon Indictment.

The Evidence you shall give to the Grand Inquest, upon his Bill of Indictment, against *A. B.* shall be the Truth, the whole Truth, and nothing but the Truth, &c.

Jur. in Cur. (is to be wrote on the Back of the Indictment.)

The Quakers Affirmation.

I *A. B.* do solemnly and sincerely declare, that the Evidence I shall give to the Court, and the Jury sworn, touching the Matter in Question, shall be the Truth, the whole Truth, and nothing but the Truth, &c.

At *Lancaster*, instead of a Commission, it is called his Majesty's Letters Patent.

In the County *Palatines*, instead of *Affise* and *Nisi Prius*, it is *Affise* and Court of Pleas.

S H E R I F F's

Business at the Assises.

THE Sheriff attends at the Assises to wait upon the Judges from their Lodgings to the Court and back again; returns the Venire's, Habeas Corpora's, Distringas's, and other Process, return Tales-men, receives the Calendar from the Clerk of the Assise, and sees that the several Judgments pronounced by the Court in Criminal Cases are duly put in Execution.

The

The Sberiff usually takes the following Fees.

- For returning every Venire 2 s. 6 d.
- For returning every Habeas Corpus, or Distringas 12 s.
- For attending the Striking a special Jury, and making out Warrants for Summoning them 2 l. 2 s.
- For returning a Tales 2 s.
- For attending a View, and returning the same of each Party 1 l. 1 s. each Day 2 l. 2 s.
- For returning the Venire, on the Crown Side 12 s.
- For Summoning every Person on the Proceſs, returnable in the ſaid Court, after an Indictment found, or for taking them on the Capias, ſo that they be, and appear at the Affiſes 2 s.
- For Summoning or Diftraining a Pariſh, Hundred, or County, on the Proceſs, returnable in the ſaid Courts, after an Indictment found, ſo that they be and appear at the Affiſes 4 s.

C O R O N E R S

Busineſs at the Affiſes.

THE Coroners are to attend the Affiſes, and to deliver to the Clerk of the Affiſes all Inquiſitions of Murder and Manſlaughter, and alſo all Inquiſitions of Felons de ſe per Infortunium ex viſitatione Dei, and all Inquiſitions where any Deodands are found, in order that the Clerk of the Affiſes may tranſmit them to his Maſteſty's Coroner, and Attorney of his Maſteſty's Court of *King's Bench*, to the End that Proceſs may iſſue to bring in the Deodand; they are likewise to attend to re-
turn

CIRCUIT COMPANION. 543

turn the Venire's, Habeas Corpora's, Distringas's, and other Procefs, where the Sheriff is related to either Party, or interested in the Suit.

The Fees usually taken by the Coroners are as follows.

For returning every Venire Facias 2 s. 6 d.

For the returning every Habeas Corpora or Distringas 12 s.

For the returning a Tales 2 s.

An

544 The CLERK of ASSISE's

An Account of Fees taken in the Circuits, by
the Judges, Marshals, &c.

Nisi Prius Side.

E N T R I N G every Cause for Tryal 11 s. 8 d.
Thus divided, viz. Judge 6 s. 8 d. Clerk of
Assise 2 s. Marshal 2 s. Cryer 1 s.

Calling the Cause 2 s. Tales 2 s. Default 2 s.

For a Warrant of Attorney in Causes where the
sworn Attorney on Record for Plaintiff or De-
fendant does not appear 4 s.

Challenge of the Jury by Plaintiff or Defendant 2 s.

A Cause referred, each Party 1 s.

A Juror withdrawn, each Party 1 s.

Confession of Lease, Entry and Ouster, in Eject-
ment 2 s.

For a private Verdict the Marshal receives 1 l. 3 s. 8 d.

Which is thus divided (viz.) To the Judge
6 s. 8 d. Clerk of Assise 2 s. Marshal 3 s. Cry-
er 2 s. Steward 2 s. Clerk 2 s. Cook 2 s. Butler
2 s. Porter 2 s.

Nonsuit or Defendant's Verdict 2 s.

Every Record withdrawn 4 s.

Every *Ne Recipiator* 4 s.

In the Crown Office, *Exchequer*, and *Qui Tam*
Causes, Double Fees are taken (except the
private Verdicts)

Crown Side.

Enteing every Traverse 15 s. 8 d. Thus divided,
Judge 6 s. 8 d. Clerk of Assise 2 s. Marshal 6 s.
Cryer 1 s.

Calling 4 s.

Each Defendant Not Guilty 2 s.

CIRCUIT COMPANION. 545

Every Recognizance entered into, respited or discharged 2s.

Every Submission to a Fine 2s.

Every Person acquitted or discharged by Proclamation 2s.

For a Special Pardon pleaded 1l.

A General Pardon pleaded 2s.

In the Counties Palatine of Durham and Lancaster.

Entring every *Exchequer* or *Crown-Office* Record 1l. 5s. Thus divided, viz. Judge 13s. 4d. Marshal 9s. 8d. Cryer 2s.

Calling Tales and Default each 4s.

Every *Habeas Corpora*, or *Distringas Jurator* 4s.

Entring every County Palatine Cause 2s.

Every Affidavit sworn in Court 2s.

Every Recovery suffered with double Voucher 13s. 4d. Thus divided, Judge 6s. 8d. Marshal 6s. 8d. every Voucher more to Marshal 3s. 4d.

Fees in the Crown Side in the Counties Palatine aforesaid.

Every Not Guilty Recognizance entered into, respited or discharged, Submission to a Fine, or Person discharged by Proclamation 5s.

All other Fees the same as before-mentioned.

At a Maiden Assises the Marshal receives of the Judge's Steward 4s. for Gloves, and his Servant 1s. 6d.

13th April 1730. Signed by the Marshals and their Deputies, and Presented to the House of Commons, by Mr. *John Smyth*; Associate and Marshal to the Right Honourable the Lord Chief Justice *Raymond*.

546 The CLERK of ASSISE's

Fes taken by the Cryers to the Judges in
Circuits.

On the Nisi Prius Side.

EVERY Cause entred (received of the Mar-
shal) 1 s.

Calling the Cause, Tales, and Default each 2 s.

Challenge of the Jury by Plaintiff, or Defendant 2 s.

Calling in Ejectment to confels Lease, Entry and
and Ouster 2 s.

Every Witness sworn on a Voyer Dire 2 s.

Every Witness sworn to give Evidence 4 d.

Swearing an Interpreter, each Side 2 s.

Nonsuit or Defendant's Verdict 2 s.

Every Cause referred, each Side 1 s.

Withdrawing a Juror, each Side 1 s.

Received of the Marshal for every private Ver-
dict 2 s.

In *Crown Office*, *Exchequer* and *Qui tam* Causes,
double Fees are taken, and in a *Crown Office*
Cause, the Cryer takes for Proclamation for In-
formation 4 s.

The Counties Palatine of Durham and Lancaſter.

Every Recovery suffered at Bar 4 s.

Calling Defendants to appear in Writs of Dower,
and all real Actions 2 s.

Every Attorney or Solicitor in the Counties Pala-
tine appearing, pays 1 s.

All other Fees the ſame as in other Places.

Crown Side.

Swearing every Witness to a Bill of Indictment 4 d.

Swearing Witnesses in Court for the King o.

Swearing

CIRCUIT COMPANION. 547

Swearing every Witness for the Person indicted 4*d*.

Calling a Travers 4*s*.

Proclamation for Information 2*s*.

Every not Guilty 2*s*.

Entry of every Travers (received of the Marshal) 1*s*.

Discharge of every Person by Proclamation 2*s*.

Every Recognizance enter'd into, respited or discharged, and every Submission to a Fine, each 2*s*.

For a Special Pardon pleaded 1*l*.

A general Pardon pleaded 2*s*.

The Counties Palatine aforesaid.

Every Recognizance entered into, respited or discharged, every Submission to a Fine, every not Guilty and Person discharged by Proclamation, each 5*s*.

All other Fees the same as in other Places.

Every Justice of the Peace gives to the Glove when he appears.

Every Mayor or Bailiff of a Corporation, or Borough appearing, gives

Every Coroner appearing, gives

The Sheriffs of *York* and *Devon*, and the Sheriffs in the Home Circuit, usually pay the Cryer on the Crown Side for opening the Court 1*l*. 1*s*.

Sheriffs of other Counties usually 10*s*. 6*d*.

At a Maiden Assise the Cryer receives of the Judge's Steward for Gloves 4*s*.

The Judge's Bailiff for attending and keeping the Jury together at *York* 2*s*. 6*d*.

In all other Counties 2*s*.

13th *April*, 1730. Signed by the Cryers and their Deputies, and Presented to the House of Commons, by the said Mr. *Joshua Williams*; Cryer to the Lord Chief Justice *Raymond*.

548 The CLERK of ASSISE's

Fees claimed by the Judges Clerks and Stewards, in the Circuits.

King's } BY-LAWS of a Corporation allowed
Bench. } in the Circuit, To the Judge 5*l.* to
the Clerk 3*l.*

Every *Habeas Corpus*, to the Clerk 4*s.*

Every Petition presented, to the Clerk 2*s.* 6*d.*

Petition from a Prisoner, nothing.

A Summons, an Order, and Affidavit, each, to the Clerk 2*s.*

Attendance by Council at the Judge's Lodgings, each Side, to the Clerk 5*s.*

An Order on such Attendance, to the Clerk 2*s.* 6*d.*

Every Fine acknowledged, Admission by Guardian, a Warrant of Attorney in a Recovery, each to the Judge 6*s.* 8*d.* to the Clerk 5*s.* Porter 4*d.*

Judge's Certificate in Battery, &c. and public Verdict, when the Court is adjourned, to the Lodgings, and Recognizance, each to the Clerk 2*s.*

Every private Verdict (received of the Marshal) to the Clerk 2*s.* Steward 2*s.*

Fines and Recoveries at *Lancaster*, each to the Judge 13*s.* 4*d.* Clerk 5*s.*

At *Durham*, to the Judge 6*s.* 8*d.* to the Clerk 5*s.*

At a Maiden Assises, the Steward receives of the Sheriff for Glove Money 4*l.* whereof 10*s.* is paid each Judge, and the rest is divided among the Officers and Servants.

JOS. MASON, Clerk, &c.

13th April 1730. Presented to the House of Commons, by the said Mr. Mason, Chamber Clerk to the Lord Chief Justice Raymond.

A like

CIRCUIT COMPANION. 549

A like Account presented by Mr. *Bray*, Clerk to Mr. Justice *Probyn*, and Signed by the Clerks to the Justices of the same Court.

Com- } A like Account presented by Mr. *Bradshaw*,
mon } Marshal to the Lord Chief Justice *Eyre*.
Pleas. } Signed, P. BRADSHAW. JN. BROWNE.

And also a like Account presented by Mr. *Castell*, Clerk to Mr. Justice *Price*.

Signed also by him and ROB. FAWCETT, Clerk to Mr. Justice *Denton*. WM. PAUL, Clerk to Mr. Justice *Fortescue*.

Exche- } Also a like Account presented by Mr. *Mon-*
quer. } *criefe*, Clerk to Mr Baron *Carter*.

Signed also by him and K. RAWLETT, Clerk to Mr. Baron *Comyns*. GEO. SCRIVENER, Clerk to Mr. Baron *Thompson*.

Fees now taken by the Clerk of the Assise for the Home Circuit, and his Officers.

On the Crown Side.

FOR every Prisoner discharged by Proclamation, or acquitted of Felony, Clerk of Assise 8 s. 4 d.

For every Prisoner Convict, burnt in the Hand, or whipped, Clerk of Assise 4 s. 8 d.

For discharging or taking every Recognizance to answer, Clerk of Assise 6 s. 8 d.

For the Copy of every Indictment in Felony, with the Caption of the Court, and the Names of the Grand Jury, Clerk of Assise 13 s. 4 d.

For pleading every Pardon and Allowance, Clerk of Assise 13 s. 4 d.

550 The CLERK of ASSISE's

And Gloves on a Special Pardon, to each Officer.
For enrolling the Pardon, and Copy for every
Sheet, Clerk of Assise 1 s. 4 d.

For Allowance and Returns of a *Certiorari* in Fe-
lony, Clerk of Assise, 13 s. 4 d.

For Allowance of a *Certiorari* in Trespass, Clerk
of Assise 6 s. 8 d.

More for every Name after the first 2 s.

For the Return thereof, Clerk of Assise 2 s.

For a Copy of every Indictment not exceeding five
Sheets, Clerk of Assise 3 s. 4 d.

For every Sheet above five, Clerk of Assise 8 d.

For every Person's appearing, Plea of not Guilty,
Recognizance, and entring the Issue in Trespass,
Clerk of Assise 12 s. 10 d.

For Drawing, Entring, and Copy of Issues, Re-
cords of Conviction, and Acquittal, for every
Sheet, Clerk of Assise 1 s. 4 d.

For making and discharging every Process, Clerk
of Assise 2 s. 6 d.

For every Conviction or Acquittal in Trespass,
Clerk of Assise 10 s. Clerk of Arraignment 2 s.

For the *Venire*, Clerk of Assise 2 s. 6 d.

For every Writ or Order of Restitution, Clerk of
Assise 6 s. 8 d.

For the Allowance of a Writ of *Noli Prosequi* from
the Attorney General, for every Person, Clerk
of Assise, 13 s. 4 d.

For a Certificate that a Person is indicted, Clerk
of Assise 2 s. Clerk of Arraignment 1 s.

Memorandum, the Fee of 13 s. 4 d. for the Copy
of every Indictment in Felony, with the Cap-
tion of the Court, &c. and the Fees relating
to a Pardon, *Certiorari*, Writ of Restitution,
and *Noli Prosequi*, very rarely happen.

For a Submission of, or *Cessat Processus*, against
Inhabitants, including Appearance and Copy,
Clerk of Assise 15 s. 4 d.

For

CIRCUIT COMPANION. 551

- For a single Person, Clerk of Assise 13s. 4d.
 For an *Habeas Corpus*, the two Writs, one to deliver, and the other to receive, Clerk of Assise 4s. Clerk of Arraignment 1s.
 For respiting of every Recognizance to Answer, Clerk of Assise 6s. 4d.
 For Recording every *Ignoramus* in Felony, Clerk of Assise 6s. 4d.
 For every Search of the Books and Records, Clerk of Arraignment 1s.
 For every *Exhibit*, Clerk of Arraignment 1s.
 For every *Subpœna* to testify, Clerk of Assise 2s. Clerk of Arraignment 6d.
 For every Ticket thereupon, Clerk of Arraignment 4d.
 For every Order, Clerk of Assise 2s. of Arraignment 3s.
 For every Certificate, for a Reward by Act of Parliament, Clerk of Assise 4s. of Arraignment 1s.
 For Swearing every High-Constable upon his Presentments in *Kent*, Clerk of Arraignment 6d.
Fees upon Informations, which very seldom are brought.
 For filing every Information, Clerk of Assise 6s. 8d. *Subpœna* thereupon, Clerk of Assise 2s. 6d.
 Defendant's Appearance thereupon, Clerk of Assise 4s.
 Every Plea of Not Guilty, Clerk of Assise 2s.
 Every other Plea, according to the Length, Clerk of Assise 1s.
 For entering Judgment, either for the Informer, or the Defendant, Clerk of Assise 6s. 8d.
 Every *Fieri Facias*, Clerk of Assise 3s. 6d.

Fees on a Demurrer, which very seldom happens.

- For allowing and filing every Demurrer and Copy, Clerk of Assise 13s. 4d.
 Joining in Demurrer for the King, Clerk of Assise 6s. 8d.
 Replying to the Rejoinder, Clerk of Assise 6s. 8d.

552 The CLERK of ASSISE's

On the Nisi Prius.

- For entring every Record, taken by the Marshal,
and accounted for to the Clerk of Assise 2 s.
If the Attorney appear not, then for the Warrant
of Attorney, Clerk of Assise 8 d.
For the calling of every Cause, Clerk of Assise 1 s.
Associate 1 s.
For Reading the Issue, Associate 2 s.
Every Issue after the first, Associate 1 s.
For every Default, *Tales* and *Postea*, Clerk of
Assise 2 s.
Each privy Verdict, Nonsuit, Defendant's Verdict,
Clerk of Assise 2 s. Associate 2 s.
For every Name after the first in a Defendant's
Verdict, Associate 2 s.
For every Challenge, Clerk of Assise 1 s. Associate
1 s.
If the Challenge be tried by Verdict, Clerk of
Assise 2 s. Associate 2 s.
For drawing every Special Verdict at the equal
Charges of Plaintiff and Defendant, for every
Sheet, Clerk of Assise 1 s.
For Ingrossing it, for every Sheet, Clerk of Assise
1 s.
For the Copy of it, for every Sheet, Associate 8 d.
For every *Subpœna*, Clerk of Assise 2 s. Associate 6 d.
For reading an Evidence, Associate 1 s.
For the endorsing the Certificate of the Battery's
being proved, &c. on the Record, Associate 2 s.
For the Notes of every Special Verdict, each Side,
Clerk of Assise 3 s 4 d. Associate 3 s. 4 d.
The Copy thereof, of each Side, Associate 3 s. 4 d.
For withdrawing a Juror, Minutes, and Draughts
of an Order, and two Copies thereof, and two
Copies of the Jury, if for a View of each Side,
Clerk of Assise 3 s. 9 d. Associate 3 s. 9 d.

To the Clerks of Indictments.

For drawing every Indictment in Felony 2 s.

In Trespass 3 s. 4 d.

If Special, 8 d. per Sheet.

Ingrossing every Sheet 4 d.

Paid by the Sheriff of each County for Copy of the Calendar 7 s. 6 d.

Paid by the Gaoler of the County of Surry for the Copy of the Calendar 7 s. 6 d.

And by the Gaolers of each of the other Counties 5 s.

The Clerk of the Assise's Man hath for every Bill of Indictment he delivers to the Gentlemen of the Grand Jury, four Pence.

Allowed and paid by the Clerk of the Assise to the Clerk of the Arraignment (his Fees being inconsiderable) Ten Pounds for every Circuit, for his Trouble and Attendance.

RI. MICHELL, Cl^r Assiar' & Gaol' Delibat',
&c. pro Circuitu Supramenconat'.

13th April 1730. Presented to the House of Commons, by the said Mr. Michell.

The Clerk of the Assise's Fees in the *Midland Circuit*, with the Fees of the Clerk of Arraignments on the Crown Side.

Fees upon Bills, or Presentments in Trespass or Misdemeanour.

FOR the Appearance of every Defendant, Clerk of Assise 7 s. 4 d.

Copy, for the first Name, Clerk of Assise 6 s 8 d.

For

554 The CLERK of ASSISE's

- For every other Name, if more than one 2 s. 8 d.
 For entring the Plea of every Defendant, Clerk of
 Assise 5 s. 4 d.
 For the Process, every Assise it is made out, Clerk
 of Assise 1 s. Clerk of Arraignment 1 s.
 For drawing up the Record upon a Travers, *per*
 Sheet, Clerk of Assise 8 d. Clerk of Arraignment 4 d.
 Ingrossing it, *per* Sheet, Clerk of Assise 8 d. of Ar-
 raignment 4 d.
 Copy, *per* Sheet, Clerk of Assise 4 d. of Arraignment 4 d.
Venire Facias, upon a Travers, Clerk of Assise
 4 s. 4 d. of Arraignment 1 s.
 At the Tryal of a Travers; for calling, Clerk of
 Assise 2 s.
 Reading the Record, Clerk of Assise 1 s. of Arraignment
 1 s.
 Proclamation, Clerk of Arraignment 1 s.
 Reading every Exhibit, or written Evidence, Clerk
 of Arraignment 1 s.
 For the Acquittal or entring Judgment, for every
 Defendant, if not Guilty, Clerk of Assise 6 s. 8 d.
 For the Discharge of every Recognizance to An-
 swer, besides 4 s. usually taken by the Clerk of
 Assise for the Marshal and Cryer Clerk of As-
 sise 1 s. 4 d. Clerk of Arraignment 6 s.
 For taking a Recognizance to Answer, besides 4 s.
 for the Marshal and Cryer, Clerk of Assise 4 s. 4 d.
 Clerk of Arraignment 1 s.
 For the discharging every Indictment upon the
 Presentment Book, upon a Submission or Stay
 of Process, *viz.* for Appearance 7 s. 4 d. Copy
 6 s. 8 d. Plea 5 s. 4 d. Total, Clerk of Assise
 16 s. 4 d. Clerk of Arraignment 3 s.
 For every Order of Court, each Side, Clerk of
 Assise 4 s. 8 d. of Arraignment 2 s.
 For respiting a Recognizance, Clerk of Assise
 5 s. 8 d. of Arraignment 1 s.
 For a Search of the Books or Records, Clerk of
 Assise 1 s.

Gaol Fees, the whole belonging to the Clerk of Assise.

Of every Prisoner tried and acquitted, for every Acquittal, besides the Fee for his Discharge, 13s. 4d.

For the Discharge of every Prisoner, 13s. 4d.

Of every Prisoner tried and convicted, and burnt in the Hand, or whipped, for his Discharge, 13s. 4d.

Recording a Bill of *Ignoramus*, 6s. 8d.

Of every Prisoner tried for Murder, and acquitted, or found guilty of Manslaughter only, for every Acquittal, besides his Discharge, 14s. 4d.

Of the Sheriff of every County, the Kalendar Fee, 2l. 5s.

Of every City or Town where an Assise is held, 6s. 8d.

Of the Sheriffs of the City of *Lincoln*, 1l. 1s.

Of the Gaoler of *Northampton*, for his Kalendar, 1l. 10s.

Of the Gaoler of the Castle of *Lincoln*, for his Kalendar, 1l. 1s.

Of the Gaoler of *Leicestershire*, for his Kalendar, 14s. 4d.

Of the Gaoler of the Borough of *Leicester*, for his Kalendar, 6s. 8d.

For a Writ of Restitution, or Writ of Priviledge and Protection, 8s.

For a *Habeas Corpus*, 5s. 4d.

For a *Subpœna*, 2s. 6d.

For the Return of a *Certiorari*, 13s. 4d.

For a *Fieri Facias*, or Writ of Execution, 6s. 8d.

For a Copy of an Indictment for Felony, 13s. 4d.

For pleading and allowing a Pardon, 16s. 8d.

To

556 The CLERK of ASSISE's

To the Clerk of Arraignment for reading the Pardon,
2 s. 6 d.

For filing an Information or Appeal, 6 s. 8 d.

Other Fees the same as in Traverses.

For drawing up Records on Indictments for Felony, if called for (which they seldom are) the like Fees as for drawing up Traverses.

Usually paid to the Clerk of Assises's Sumpter-Man for carrying a Bill to be sworn to, and afterwards to the Grand Jury, 4 d.

Fees for Indictments.

For drawing a common Indictment, 2 s.

For drawing Special Indictment, 3 s. 4 d.

If more than five Sheets, for drawing every Sheet,
8 d.

THO. BLENCOWE, Cler' Assiar'

13th April, 1730. Presented to the House of
Commons, by the said Mr. Blencowe.

A Table of Fees taken by the Associate, for
the Clerk of Assise and himself, in all *Nisi*
Prius Causes on the *Midland* Circuit.

FOR Calling every Cause, Clerk of Assise 2 s.

Reading every Record, Associate 2 s.

For every Defendant's Default, Clerk of Assise 2 s.

Every *Tales de Circumstantibus*, Clerk of Assise 2 s.

For every Plaintiff's Verdict, Clerk of Assise 1 s.

Associate 1 s.

For every Nonsuit, or Defendant's Verdict, Clerk
of Assise, 3 s. 4 d. Associate 8 d.

Drawing up every Rule, or Order of Court,
and Copy for each Party, each Party pays 6 s.

Clerk of Assise 4 s. Associate 8 s.

For

CIRCUIT COMPANION. 557

For taking Accounts, or Notes in Court, Associate 2 s.

For drawing every Certificate, signed by the Judge in Court, Clerk of Assise 3 s. Associate 3 s.

For making the Pagnel in Ejectment when the Plaintiff is Nonsuit, for want of Defendant's appearing to confess, &c. Associate 2 s.

For every Challenge to the Poll, each Party challenging pays Associate 2 s.

Challenge to the Array, Associate 4 s.

If drawn by the Associate, more 4 s.

For other Pleadings thereon, drawing *per* Sheet 1 s. ingrossing 1 s. Copy, each Party, 8 d.

Every Exhibit read in Court, Associate 1 s.

Every private Verdict, Clerk of Assise 2 s. 4 d. Associate 4 s. 4 d.

For recording Special Verdict, Associate 2 s.

Copy of the Notes of a Special Verdict, or Special Case, each Party pays 3 s. 6 d. to Associate.

For drawing Special Verdict *per* Sheet 1 s. ingrossing *per* Sheet 1 s. Copy for each Party 8 d. *per* Sheet, Clerk of Assise 2 s. 4 d. Associate 1 s.

For every *Postea*, Clerk of Assise 1 s. 6 d. Associate 6 d.

If more than one Issue returned, then for every Issue after the first, Associate 2 s.

Every Juror withdrawn, each Party pays 2 s. Clerk of Assise 1 s. Associate 3 s.

Copy of every Jury, Associate 2 s.

Every Cause in the Exchequer pays for reading *Mittimus* or Commission, Associate 2 s.

Indorsing what is found on an Issue directed out of any Court of Equity, Associate 2 s.

For every Warrant of Attorney, Associate 8 d.

Copy of the Verdict endorsed on the Pagnell, Associate 2 s.

For every Not Guilty, upon an Information at Suit of the King, Clerk of Assise 3 s. 4 d. Associate 2 s.

For

558 The CLERK of ASSISE's

For taking a Verdict by Adjournment at the Crown Court, or at the Judge's Lodgings, Associate 3 s. 4 d.

Attending the Judge, or the Court, with a *Postea*, Associate, 6 s. 8 d.

For Copy of any *Nisi Prius* Record, *per* Sheet 8 d. Associate 8 d.

For reading Attorney General's Warrant for Tales, Associate 2 s.

For every Proclamation at Suit of the King, Associate 2 s.

For entering every Cause 2 s. and for every private Verdict 2 s. which the Judge's Marshal receives for the Clerk of Assise 4 s.

THO. BLENCOWE, *Cler' Assiar'*
RICH. EADNELL.

13th April, 1730. Presented to the House of Commons, by the said Mr. *Blencowe*.

A Table of Fees by me now taken as Clerk of the Assises for the *Norfolk* Circuit, together with my Clerk of the Arraignment on the Gaol Side.

FOR drawing every Indictment in Felony, Clerk of Arraignment, 2 s.

If for Murder or Robbery, Clerk of Arraignment 3 s. 4 d.

If long, according to the Length, at 8 d. *per* Sheet, Clerk of Arraignment.

For every Indictment in Trespass, how short soever, 3 s. 4 d.

If long, according to the Length, 8 d. *per* Sheet, Clerk of Arraignment.

For entering every Appearance to an Indictment in Trespass against one Person, Clerk of Assise, 7 s.

If

CIRCUIT COMPANION. 559

- If more than one Name, for every other Name,
Clerk of Assise, 4 s.
For the Copy of the Indictment, for the first Name,
Clerk of Assise 6 s. 8 d.
For every other Name, 2 s.
For entering every Plea of Not Guilty in Trespass,
Clerk of Assise 5 s. 4 d.
For the Process sent out upon every Indictment,
Clerk of Assise 2 s.
For joining Issue thereupon, for the King, Clerk
of Assise 6 s. 8 d.
For drawing every Traverse at Issue, *per* Sheet,
Clerk of Assise 1 s.
For engrossing it on Parchment on Record, *per*
Sheet, Clerk of Assise 1 s.
For the Copy to be delivered to the Party indicted,
per Sheet, Clerk of Arraignment 8 d.
For examining it, and the Clerk of the Assise's
Hand to it, 6 s. 8 d.
For every *Venir' Fac' Jur'* Clerk of Assise 4 s. of
Arraignment 1 s. 4 d.
For every *Subpœna*, Clerk of Arraignment 2 s. 6 d.
For entering every Confession, Clerk of Arraignment
2 s. 8 d. Clerk of Assise 4 s.
For entering every Acquittal and Discharge, Clerk
of Assise 6 s. 8 d.
For allowing and filing every Demurrer and Copy,
Clerk of Assise 10 s. Clerk of Arraignment 3 s. 4 d.
For joining in Demurrer, for the King, Clerk of
Assise 6 s. 8 d.
For replying to the Rejoinder, Clerk of Assise
6 s. 8 d.
For discharging an Indictment by Motion for In-
sufficiency, Clerk of Assise 7 s. 4 d.
For every Writ of Privilege, Warrant of good
Behaviour, and Writ of Restitution, Clerk of
Assise 4 s. 8 d. Clerk of Arraignment 2 s.

For

560 The CLERK of ASSISE's

For making and signing every Special Warrant,
Clerk of Assise 6 s. 8 d.

For drawing, copying, entering and signing every
Order on the Common Side, Clerk of Assise
4 s. 8 d. Clerk of Arraigns 2 s.

For examining every Record on the Gaol Side, and
the Clerk of the Assise's Hand to it, Clerk of
Assise 6 s. 8 d.

For allowing *Certiorari* in Trespass, Clerk of Assise
6 s. 8 d.

For the Return, for every Name, Clerk of Assise 2 s.

If in Felony of Treason, Clerk of Assise 13 s. 4 d.

The like Fees for allowing of a *Certiorari* to re-
move an Order.

For certifying thereof, if it be not a Record of
Conviction, Clerk of Assise 6 s. 8 d.

If it be a Record of Conviction, then for every
Sheet, Clerk of Assise 1 s.

For every Discharge for an Indictment upon a Cer-
tificate, Clerk of Assise 6 s. 8 d.

For every *Habeas Corpus*, Clerk of Arraigns 5 s.

For every Certificate of a Person being indicted,
Clerk of Assise 4 s. 8 d. Clerk of Arraigns 2 s.

If ten Persons are indicted, no more than one Issue
is drawn up.

For pleading and allowing every Special Pardon,
Clerk of Assise 5 l.

For taking a Recognizance in Court, to answer,
Clerk of Assise 4 s. of Arraigns 4 s.

For every Discharge of such Recognizance, Clerk
of Assise 10 s. of Arraigns 4 s. 8 d.

For the Discharge of every Prisoner in Gaol, Clerk
of Assise 10 s. of Arraigns 4 s. 8 d.

And if by Proclamation, more, Clerk of Assise 1 s.

For every one that hath his Pardon allowed, Clerk
of Assise 10 s. of Arraigns 6 s. 8 d.

For every Prisoner Burnt in the Hand, Clerk of
Assise 10 s. of Arraigns 3 s. 4 d.

CIRCUIT COMPANION. 561

- For the Discharge of every Prisoner, the Bill being *Ign'* Clerk of Assise 10 s. of Arraignment 3 s. 4 d.
For entering and filing every Information *Qui tam*, Clerk of Assise 2 s.
For entering every Imparlance thereon, for every Name, Clerk of Assise 2 s.
For drawing and entering the Defendant's Plea of Not Guilty, Clerk of Assise, 4 s.
For drawing every other Plea, for every Sheet, Clerk of Assise 1 s.
For every Licence to compound, Clerk of Assise 6 s. 8 d.
For Judgment thereupon, Clerk of Assise 6 s. 8 d.
For every *Pieri Fac'* Clerk of Arraignment 2 s. 6 d.
For respiting every Recognizance to Answer, or to Traverse, Clerk of Assise 4 s. of Arraignment 2 s. 8 d.
For filing, entering, and allowing a *Noli Prosequi*, or *Cessat Processus*, for every Name, Clerk of Assise 10 s. of Arraignment, 3 s. 4 d.
For calling a Traverse, Clerk of Arraignment 2 s.
For entering the Plea, Ditto 2 s.
For recording the Verdict, Ditto 2 s.
For reading an Evidence, Ditto 1 s.
For every Search in the Office for Indictment, &c. Ditto 1 s.

The Clerk of the Assise's Sumpter-man has for every Bill of Indictment he carries to the Gentlemen of the Grand Jury, 4 d.

There is an Ancient Fee always paid by the High Sheriff of every County, to the Clerk of the Assises, for his and his Clerk's Trouble of making out of the several Calendars of the Prisoners, of 1 l. 13 s. 4 d.

Paid by the several Gaolers to the Clerk of the Arraignment 12 s. 6 d.

R. JENYNS, Cl. of the Assises for the *Norfolk* Circuit.

Memorandum, The Fees of Demurrers, *Certiorari*, Pardons, Informations, or *Noli Prosequi*, very seldom happen, but being in any my ancient Table of Fees, I thought it my Duty to set them down.

R. JENYNS.

Fees claimed by the Associate of the *Nisi Prius* Side, on Trials of Causes by *Nisi Prius*, issuing out of the Court of *King's Bench* and *Common Pleas*.

FOR calling the Causes, Associate 1 s. Clerk of of Assise 1 s.

Reading the Record, Associate 1 s. Clerk of Assise 1 s.

Calling the Defendant to look to his Challenges, Associate 2 s.

Challenge of a Juror, and Return thereof on the *Postea*, Associate 2 s.

Marking the Defendant's Default, and returning thereof on the *Postea*, Clerk of Assise 2 s.

Awarding the Tales, and writing the Names of the Jury on the Tales, and Return thereof on the Record, Clerk of Assise 2 s.

Calling the Defendant to confess Lease, Entry, and Ouster, Associate 2 s.

Marking the Record, that Lease, Entry, and Ouster is not confessed, Associate 2 s.

Reading each Evidence, and marking the same to have been read in Court, in the Cause, Associate 2 s.

Recor-

CIRCUIT COMPANION. 563

Recording the Plaintiff's common Verdict, Associate 1 s. Clerk of Assise 1 s.

For a private Verdict, Associate 2 s. Clerk of Assise 2 s.

Upon a Verdict and an Enquiry, where there is a *Unica fiat Taxatio*, Associate 3 s. Clerk of Assise 1 s.

Taking Notes of Particulars, Associate 2 s.

Or according to the Length, at 8 d. *per Fol.*

Vi & Armis where there is a *Capiat' pro Fine*, Associate 2 s.

Withdrawing a Juror where the Cause is referred, or otherwise, Associate 1 s. Clerk of Assise 1 s.

For a Copy of the Jury sworn, Associate 1 s.

For the Return of a common *Postea*, Associate 6 d. Clerk of Assise 1 s. 6 d.

For every Issue, or *Quoad*, Associate 2 s.

For taking the Minutes of every special Verdict, Associate 13 s. 4 d.

For drawing a Special Verdict, *per Fol.* 8 d. Associate 1 s. 4 d. Clerk of Assise 2 s.

Writing fair for Council *per Fol.* 8 d. Associate 1 s. 4 d. Clerk of Assise 2 s.

For Defendant 8 d. Associate 1 s. 4 d. Clerk of Assise 2 s.

Engrossing on the Record *per Fol.* 8 d. Associate 1 s. 4 d. Clerk of Assise 2 s.

For drawing and engrossing every Special Indorsement 2 s. or *per Fol.* Associate 1 s. 4 d.

For the Copy of any Proceedings, *per Fol.* Associate 8 d.

For attending the Court, or the Judge of Assise, with any *Postea*, or otherwise, Associate 6 s. 8 d.

For recording the Defendant's confessing Lease, Entry, and Ouster, and returning thereof on the *Postea*, Associate 2 s.

For recording the Defendant's Verdict on a *Non Prof'* Associate 1 s. Clerk of Assise 3 s.

564 The CLERK of ASSISE's

For a Certificate of Battery being well proved, or a Trespass to be voluntary and malicious, or of a probable Cause for bringing an Action, or such like, Associate 6 s. 4 d.

For drawing, copying, and entering every Order of Assise, or *per Folio* 8 d. each, Associate 4 s. 8 d. Clerk of Assise 2 s.

For a Warrant of Attorney, where the Attorney on Record don't appear, Associate 1 s.

In Causes issuing out of the Court of Exchequer.

For Allowance of the Exchequer Commission, and filing thereof, Associate 4 s. 8 d.

In all other Particulars the Fees are double what is received in Causes out of the *King's Bench* and *Common Pleas*.

In Causes coming out of the Crown Office.

For filing the Attorney General's Warrant, Associate 6 s. 4 d.

Proclamation for each Defendant, Associate 1 s.

Acquittal, for the first Defendant, Associate 1 s.

Clerk of Assise 6 s.

Of each other Defendant, Associate 1 s. Clerk of Assise 3 s.

In all other Particulars the Fees are double what is received in Causes of the *King's Bench*, and *Common Pleas*.

On Challenge to the Array.

Calling the Cause, Associate 1 s. Clerk of Assise 1 s.

Reading the Challenge, Associate 1 s. Clerk of Assise 1 s.

Filing thereof, Associate 2 s.

Reading Demurrer, Associate 1 s. Clerk of Assise 1 s.

Filing thereof, Associate 2 s.

Reading Joinder in Demurrer, Associate 1 s. Clerk of Assise 1 s.

Filing thereof, Associate 2 s.

Judgment

CIRCUIT COMPANION. 565

Judgment in Demurrer, Associate 4 s.
 Reading the Plea, Associate 1 s. Clerk of Assise 1 s.
 Filing thereof, Associate 2 s.
 Filing the Issue, Associate 2 s.
 Drawing up the Judgment, writing fair, and ingrossing on the *Postea*, each *per* Fol. Associate 2 d. Clerk of Assise 6 d.
 For every Order for sparing Issues in *Bucks, Bedd' Hunt' Cambridge* and *Norwich*, Associate 2 s. 6 d.
 For every Order for sparing Issues in *Norfolk* and *Suffolk*, Associate 5 s.

NICHOLAS MERWIN, Associate.

13th April, 1730. Presented to the House of Commons, by Mr. *Jenyns*, Clerk of the Assises for the *Norfolk* Circuit.

29mo. Julii 19mo. Car' 2di. A Table of the Fees and Allowances belonging, and which have anciently been paid and allowed to the Clerk of Assises, and now taken, for the *Northern* Circuit, touching Pleas of the Crown, and Gaol Delivery.

FOR drawing an Appeal 6 s. 8 d.
 For entering the Appearance of the Appellee 6 s. 8 d.

For entering Plea of Not Guilty 2 s.

For every other Plea, for every Sheet 1 s.

For joining Issue in Appeal 2 s.

For every *Venire Fac'*, *Habeas Corpor'* and *Distring' Jur'* 6 s. 8 d.

For every *Subpæna*, Attachment, *Distring'*, *Venir' Fac'*, *Capias* in Process, *Habeas Corpus ad ducend' vel recipiend'* 2 s. 6 d.

For every Writ of Privilege, Warrant of good Behaviour, and Writ of Restitution 6 s. 8 d.

566 The CLERK of ASSISE's

For drawing every Indictment, how short soever 2 s.
If long, then according to the Length thereof.

For making and signing every Special Warrant
6 s. 8 d.

For examining every Record on the Gaol Side,
and the Clerk of Assise's Hand to it (except in
Case of Indictment of Felony, Murder, or Treason)
6 s. 8 d.

And in Case of Felony, Murder, or Treason
13 s. 4 d.

For entering every Appearance to an Indictment,
or Presentment, in Trespass 2 s. 4 d.

And for entering every Confession thereupon 2 s.

And for entering every Discharge, or Acquittal
thereupon 10 s. 8 d.

For drawing and entering every Plea of Not Guilty 4 s.

And for the Copy of every Indictment, for every
Sheet 8 d.

And for examining and signing the same, by the
Clerk of Assizes 6 s. 8 d.

For joining Issue thereupon for the King, commonly
called Admittance to Traverse 6 s. 8 d.

For drawing every Traverse at Issue, for every
Sheet 1 s.

And for entering it upon Record, for every
Sheet 1 s.

And for the Copy thereof, for every Sheet 8 d.

And for examining thereof, and the Clerk of Assise's
Hand to it 6 s. 8 d.

For the Clerk of Assise's Hand to the Record
6 s. 8 d.

For drawing, entering, copying, examining, and
signing every other Special Plea, Issue or Record,
the like Fees.

For allowing a *Certiorari* in Trespass 6 s. 8 d.

If in Felony, Murder, or Treason 13 s. 4 d.

For certifying thereof, if it be not the Record of
Conviction 6 s. 8 d.

If

CIRCUIT COMPANION. 567

- If it be the Record of Conviction, then for every Sheet 1 s.
- For entering every Recognizance (except to prefer Indictments or give Evidence) 5 s. 4 d.
- For every Discharge of such Recognizance, Bail, or Mainprize 14 s. 8 d.
- For Discharge of every Prisoner in Gaol, ordered to be discharged 14 s. 8 d.
- Of every one that hath his Pardon allowed 16 s. 8 d.
- For confessing on the Behalf of the King, every Plea of Pardon, or Acquittal 6 s. 8 d.
- For filing and entering Information, *Qui tam*, &c. 2 s.
- For entering every Imparlance 2 s.
- For drawing and entering the Defendant's Plea of Not Guilty 4 s.
- For drawing every other Plea, for every Sheet 1 s.
- For every Licence to compound 6 s. 8 d.
- For entering Judgment 6 s. 8 d.
- For every *Fieri Fac'* 2 s. 6 d.
- He likewise claims for entering the Conformity of a Recusant 13 s. 4 d.
- He hath also the like Fees upon Tryals of Travverses, as in Causes of *Nisi Prius*.
- For calling the Cause 2 s.
- Verdict, if for the Defendant, 4 s.
- Each Defendant, if found Not Guilty, pays for Acquittal 10 s. 8 d.
- For reading Evidence in Court, (if any be read) for each 1 s.

HEN. WOOD, *Cl^r Ass^{is} ibm.*

22d April, 1730. Presented to the House of Commons, by the said Mr. Wood.

568 **The CLERK of ASSISE's**

Fees claimed, on the *Nisi Prius* Side, by the Associate on the *Northern Circuit*.

Fees paid by the Plaintiff.

FOR the Defendant's Default 2 s.
Calling Defendant in Ejectment to confess
Lease, Entry, and Ouster, 2 s.
For a Nonsuit by Defendant's not confessing 4 s.
Plaintiff's { In *Yorkshire* 2 s.
Verdict { In the three Northern Counties 4 s.

On a Challenge to the Array.

Copy of the Challenge 1 s.
Filing the Plea 2 s.
Copy of the Replication 1 s.
And after the same Rate, if the Proceedings are
carried further.

By the Defendant.

A Nonsuit, or De- { In *Yorkshire* 4 s.
fendant's Verdict { In the three Northern Coun-
ties 6 s.

On a Challenge to the Array.

Filing the Challenge 2 s.
Copy of the Plea 1 s.
Filing the Replication 2 s.
And after the same Rate, if the Pleadings are
carried further.

By Plaintiff, or Defendant, as they happen.

Calling the Cause 2 s.
Reading the Record 2 s.

For

CIRCUIT COMPANION. 569

For a *Tales de Circumstantibus*, and for the extraordinary Length of the *Postea* when it happens 2 s.

The Proclamation for Information in Crown Office Causes 2 s.

Filing a Warrant from the Attorney General for a *Tales* 2 s.

Stating Accounts, or taking Notes, 2 s.

If very long, something more.

For reading every Exhibit for Evidence, 1 s.

Challenge to the Polls 2 s.

Attending to take every private Verdict 6 s. 8 d.

Every Certificate 4 s.

Returning a common *Postea* for every Issue, and finding by the Jury 2 s.

Between Plaintiff and Defendant.

For every Order of Affise 12 s.

Withdrawing a Juror 2 s.

Drawing Case and Copy 7 s.

Drawing Notes for a Special Verdict, and Copy, 7 s.

Drawing Special Verdict, *per Sheet* 1 s.

Copying it, *per Sheet* 8 d.

Ingrossing it, *per Sheet* 1 s.

In Obedience to the Commands of the Honourable the House of Commons, I humbly certify the above List of the usual Fees, as they occasionally become due, now received by me for *Henry Wood*, Esq; the Clerk of Affise: And that I for my executing the Office of Associate, and my Charges and Expences therein, having from the Clerk of Affise a certain yearly Salary, do take and receive, for my own Use, the Fees and Allowances only as under wrote.

Fees

70 The CLERK of ASSISE's

Fees for attending with a *Postea* on any of the Courts at *Westminster*, or the Judge's 6s. 8d.
For every Search 4d.

Allowances out of the above Fee for returning *Posteas*, allowed me for writing the Return, in every 2 s. 6 d.

And out of the Fees for drawing, &c. a Special Verdict, *per* Sheet 4 d.

THO. PAINE, *Associate*. April 13, 1730.

April 14, 1730. Presented to the House of Commons, by the said Mr. *Paine*.

Fees due to the Clerk of Assise, and the Associate, on the Crown Side, in the *Oxford* Circuit.

FOR the Appearance of every Defendant upon an Indictment of Misdemeanour 5 s. 4 d.

For the Copy of every ordinary Indictment of Misdemeanour, if but one Name 6 s. 8 d. out of which is paid to the Associate on the Crown Side 2 s.

For every other Name in the said Indictment 2 s.

If it be a long Indictment, after the Rate of 8 d. *per* Sheet.

To the Clerk for writing every Copy of an Indictment 2 s.

For every Process 2 s. out of which is paid to the said Associate 1 s.

For entering every Defendants Plea, if Not Guilty 2 s.

For entering every *Cessat Processus* 2 s. out of which is paid to the said Associate 1 s.

For every Order 6 s. out of which is paid to the said Associate 2 s.

To the Clerk for Writing the same 1 s.

For

·CIRCUIT COMPANION. 571

For the Submission of every Defendant to an Indictment 4s. out of which is paid to the said Associate 1s.

For taking and entring of every Recognizance 5s. 4d. out of which is paid to the said Associate 1s.

For discharging every Recognizance 9s. out of which is paid to the said Associate 2s. 4d.

Note, Where it is for the discharge of a Recognizance to Traverse, the said Associate receives a Moiety of the 9s.

For every Order for respiting a Recognizance 4s. out of which is paid to the said Associate, 1s.

For calling every Cause, reading the Record and Proclamation 5s. out of which is paid to the said Associate 3s.

For drawing up the Record of every Traverse, *per* Sheet 1s. for entring the same on the Roll, *per* Sheet 1s. and for making a Copy thereof for the Defendant 8d. *per* Sheet, out of which 2s. 8d. is paid to the said Associate 1s. *per* Sheet.

For the Clerk's Fee upon every Traverse Book 3s.

For every *Subpæna* 2s. 6d. out of which is paid to the Associate 6d.

To the Clerk for writing every *Subpæna*, or other Writ 6d.

For every *Venire Facias*, *Habeas Corpora*, or *Distingas Jurator* 5s. out of which is paid to the said Associate 6d.

For entring every Verdict of Not Guilty, for each Defendant 6s. 8d.

For every *Habeas Corpus* to remove a Prisoner 2s. 6d. out of which is paid to the said Associate 6d.

For every *Habeas Corpus* to receive a Prisoner 2s. 6d. out of which is paid to the said Associate 6d.

To the Clerk for writing each Writ 6d.

For

572 The CLERK of ASSISE's

For every Writ of Restitution 8s. 8d. out of which is paid to the said Associate 2s.

For every Writ of Protection or Privilege 8s. out of which is paid to the said Associate 2s.

For the Copy of every Indictment for Felony 13s. 4d. out of which is paid to the said Associate 2s.

To the Clerk for writing the same 2s.

For every Prisoner discharged by Proclamation 9s. out of which is paid to the said Associate 2s. 4d.

For every Prisoner convicted and burnt in the Hand, or whipt and bound over again 19s. 4d. out of which is paid to the said Associate 2s. 4d.

For every Prisoner convicted and burnt in the Hand, or whipt and discharged 14s. out of which is paid to the said Associate 2s. 4d.

For every Prisoner found Not Guilty of one Indictment of Felony, and discharged, 17s. 8d. out of which is paid to the said Associate 2s. 4d.

If acquitted of more than one, for each Indictment 8s. 8d.

For pleading every Pardon 17s. 4d.

For the Copy of every *Ignoramus* Indictment 5s. 4d. out of which is paid to the said Associate 2s.

For every *Fieri Facias*, or other Writ *de Executione Judicii* 6s. 8d. out of which is paid to the said Associate 1s.

For the Copy of every Acquittal 13s. 4d. out of which is paid to the said Associate 2s.

For every County Calendar 1l. 10s. out of which is to be paid to the said Associate 10s.

To the Clerk for writing the same 5s. and for engrossing the under Sheriffs Pannels of his Juries in Court who try the Prisoners 2s. 6d. and to the Clerk of Assise's Servant more 2s. 6d.

For every City Calendar 13s. 4d. out of which is paid to the said Associate 3s. 4d.

To

CIRCUIT COMPANION. 573

To the Clerk for writing the same, and ingrossing the Pannels of the Jury for the Under-Sheriff, &c. 5s.

For the Return of every *Certiorari* of every Indictment for Felony 16s. 8d. out of which is paid to the said Associate 3s. 4d.

For the return of every *Certiorari* of every Indictment for Trespass 10s. out of which is to be paid to the said Associate 3s. 4d.

For every Writ or Warrant of Good Behaviour, for the first Name 2s. 6d.

For every other Name 2s.

To the said Associate 1s.

For every Certificate that a Person stands indicted in order to procure a Justice of Peace's Warrant 2s.

To the Clerk for Writing it 1s.

But if a Certificate to any of the Courts at *Westminster* 6s. 8d. out of which is paid to the Clerk for writing it 1s.

To the Clerk for every Search for an Indictment, or other Matter 1s.

For the Allowance and Entry of every *Noli Prosequi*, upon each Indictment 13s. 4d.

For reading every Exhibit, to the Associate 1s.

For the Entry of every Traverse (which is received by the Judge's Marshal for the Clerk of Assise) 2s.

For Glove Money from the Sheriff to the Clerk of Assise, and his Officers, when there is a Maiden Assises 1l.

For a Certificate for the Reward of forty Pounds, 5s.

For every Order to spare every Issue of the petty Jurymen to the Associate 2s.

For a Transcript from an Indictment, in order to convict a Felon for being at large after ordered to be transported 2s. 6d.

To

574 The CLERK of ASSISE's

To the Clerk of Assise's Servant for going with the Prosecutor and Witnesses, and carrying every Indictment from the Clerk of Indictments to the Court, and getting them sworn thereto, and carrying the same to the Grand Jury 4*d*.

Fees due to the Clerk of Assise and Associate on the Crown Side for Information in the Oxford Circuit.

For filing every Information, of the Informer 6*s*. 8*d*.

For the *Subpœna* thereupon 2*s*. 6*d*. out of which is paid to the said Associate 6*d*.

For the Defendant's Appearance thereupon 4*s*.

For every Plea of Not Guilty 2*s*.

For every other Plea according to the Length, *per Sheet* 1*s*.

For every *Venire Facias* 2*s*. 6*d*. out of which is paid to the said Associate 6*d*.

For every *Habeas Corpora*, or *Distringas Jur'* 2*s*. 6*d*. out of which is paid to the said Associate 6*d*.

For entring every Judgment, either for the Informer, or for the Defendant 6*s*. 8*d*.

For every *Fieri Facias*, or *Capias ad Satisfac'* &c. 3*s*. 6*d*. out of which is paid to the said Associate 6*d*.

To the Clerk for writing every Writ 6*d*.

Memorandum, The other Fees for drawing up and entring the Record, &c. are as before upon Indictments.

Memorandum, The Fee of 13*s*. 4*d*. for the Copy of an Indictment of Felony, and several other Fees relating to Felony and *Certiorari*, Writs of Restitution, Protection, and *Noli Prosequi*, very rarely happen.

Fees

Fees due to the Clerk of Assise and Associate on the Nisi Prius Side, in the Oxford Circuit.

For the Entry of every Cause, which is received by the Marshal for the Clerk of Assise 2 s.

For the Entry of every *Exchequer* Record, or Information out of the Crown Office, which is received by the Marshal for the Clerk of Assise 4 s.

For calling every Cause, to the Clerk of Assise 2 s.

For reading every Record, to the said Associate 2 s.

For every Default 2 s. 4 d. out of which is paid to the said Associate 4 d.

For every *Tales de Circumstantibus* 2 s. 4 d. out of which is paid to the said Associate 4 d.

For every *Non Prof* 4 s. 4 d. out of which 2 s. 4 d. is paid to the said Associate.

For every Defendant's Verdict 4 s. 4 d. out of which is paid to the said Associate 2 s. 4 d.

For every Plaintiff's Verdict 2 s. out of which is paid to the said Associate 1 s.

For every Verdict against the King upon Information 5 s. 4 d. out of which is paid to the said Associate 3 s. 4 d.

For every Warrant of Attorney to the said Associate 8 d.

For the Return of every *Postea*, to the Clerk of Assise 2 s.

For marking the Pannel upon Default in Ejectment, to the said Associate 2 s.

For every Order of Assise, to each Party 6 s. out of which is paid to the said Associate 2 s. for each Party.

For every Certificate signed by the Judge in Court on the back of the Pannel, to the said Associate 6 s.

For

576 The CLERK of ASSISE's

For every Challenge to the Poll, to the said Associate 2 s.

For every Challenge to the Array, to the said Associate 4 s.

For drawing up every Challenge and every Plea thereto, for each to the said Associate 4 s.

For reading every Evidence or Exhibit in Court, to the said Associate 1 s.

For taking an Account in Court, directed either by the Judge or Council, to the said Associate 2 s.

For every Order to spare every Issue, to the said Associate 2 s.

For every private Verdict, to the Associate, besides the usual Fees 4 s. 8 d.

For the Copy of the Notes of every Special Verdict, each Party pays to the said Associate 3 s. 6 d.

For every *Retraxit*, to the said Associate, from each Party 2 s.

For every Exchequer Commission and *Mittimus*, for each Cause, to the said Associate 4 s.

For the Copy of every Jury made for Plaintiff or Defendant (if required) to the said Associate 2 s.

For the Copy of the Indorsement of the Verdict on the Pannel, to the said Associate 2 s.

For indorsing what is found upon an Issue directed out of *Chancery*, to the said Associate 2 s.

For attending either at the Crown Side, or at the Judge's Chambers to take a Verdict, to the said Associate 3 s. 4 d.

For every Confession *Relicta Verificazione*, to the said Associate 4 s.

For drawing up every Special Verdict, and ingrossing the same, and making two Copies thereof for Plaintiff and Defendant, *per* Sheet to the Clerk of Assise 3 s. 4 d.

For every *Subpœna* to the Clerk of Assise 2 s. 6 d.

For every private Verdict which is received by the Marshal, for the Clerk of Assise 2 s.

CIRCUIT COMPANION. 577

For attending any of the Courts at *Westminster* with a *Postea*, when either Party moves in Arrest of Judgment, to the said Associate 6 s. 8 d.

Fees due to the Clerk of the Indictments in the Oxford Circuit.

For every common Bill of Felony 2 s.

For every Special Bill under five Sheets 3 s. 4 d.

If above five Sheets, 8 d. per Sheet Drawing, and 4 d. Ingrossing.

THO. MULSO, Jun. Clerk of the Assise for the *Oxford Circuit*.

13th April 1730. Presented to the House of Commons, by the said Mr. *Tho. Mulso* Jun.

Fees now and heretofore taken by the Clerk of Assise of the *Western Circuit*.

On the Crown Side.

FOR drawing every Bill of Indictment in Felony 2 s.

For every common Bill of Indictment in Trespass 3 s. 4 d.

For every Special Bill of Indictment in Perjury, Forgery and Riots 6 s. 8 d.

For every Process, as *Ven' Fac'*, *Subp'*, *Cap'*, or Attachment 2 s. 6 d.

For Recording Appearance of every Defendant 5 s. 4 d.

For Copy of Indictment or Information 8 s. 8 d.

For recording every Plea 4 s.

For every Special Plea, per Sheet 1 s.

For taking every Recognizance 6 s. 4 d.

For discharging every Recognizance 6 s. 4 d.

578 The CLERK of ASSISE's

For respiting every Recognizance 6 s. 4 d.

For every imparlance 2 s.

For every Writ of *Habeas Corpus* to deliver a Prisoner 4 s. 4 d.

For every Writ of *Habeas Corpus* to receive a Prisoner 4 s. 4 d.

For every Writ of *Habeas Corpus ad Testificand* 6 s. 8 d.

For every *Ven' Fac'* on a Traverse 6 s. 4 d.

For recording every Acquittal 13 s. 4 d.

For drawing up every Special Verdict, *per Sheet* 1 s.

For ingrossing the same, *per Sheet* 1 s.

For Copy thereof, *per Sheet* 8 d.

For drawing up the Issue on every Traverse *per Sheet* 1 s.

For entring the same on the Roll, *per Sheet* 1 s.

For Copy thereof, *per Sheet* 8 d.

N. B. Tho' there be ten or more Persons indicted, yet only one Issue is drawn up, or paid for.

For every Warrant *per Cur'* 2 s. 6 d.

For every Writ of Restitution 6 s. 8 d.

For every Writ of Protection 6 s. 8 d.

For carrying the Bill of Indictment from the Court to the Grand Jury 4 d.

For a Copy of every Indictment, or Inquisition in Treason, Murder, or Felony 13 s. 4 d.

For relinquishing a Plea pleaded, and entring a Confession, *Cum Protestando* 13 s. 4 d.

For the Discharge of every Parish or Township, for not repairing their Highways upon an Indictment or Presentment by the Grand Jury 1 l. 16 s. 4 d.

For discharging the same on a Presentment by a Constable 13 s. 4 d.

For filing every Certificate 3 s. 4 d.

For every Gaol Prisoner discharged by Proclamation 13 s. 4 d.

For

CIRCUIT COMPANION. 579

- For allowing every Writ of *Certiorari* 13 s. 4 d.
- For Transcript of the Record annexed to the same
1 l. 6 s. 8 d.
- Allowing a *Noli Prosequi*, for each Person 13 s. 4 d.
- For pleading, entring and allowing every Circuit
Pardon 1 l. 3 s. 4 d.
- For pleading, entring and allowing every Special
Pardon 5 l.
- For Copy of the Conviction of Traytor, Felon or
Murderer 1 l. 6 s. 8 d.
- For Copy of the Acquittal of any such 1 l. 6 s. 8 d.
- For Copy of Examination, Information, or Re-
cognizance 3 s. 4 d.
- For every *Ignoramus* on an Indictment in Felony,
Treason and Murder 13 s. 4 d.
- For every *Ignoramus* on an Indictment for Tres-
pafs 6 s. 8 d.
- For every Order of the Court and Copy 4 s.
- For a Copy of every Jury impanelled 3 s. 4 d.
- For reading every Exhibit offered in Court as Evi-
dence, except Charters and Acts of Parliament 1 s.
- For reading every Charter, or Act of Parliament 2 s.
- For reading and filing every Affidavit 2 s.
- Of the Sheriff of each County (except the Coun-
ties of *Devon* and *Somerset*) for perusing and
amending their Process and Return, to avoid
Mistakes and making a Calendar, wherein is
contained the several Orders on every Prisoner
2 l. 10 s.
- Of the Sheriffs of *Devon* and *Somerset* 4 l. 10 s.
- Of every Gaoler, except the Gaolers of *Devon* and
Somerset 1 l. 1 s.
- Of the Gaoler of *Devon* and *Somerset* 2 l.

580 The CLERK of ASSISE's

On the Nisi Prius Side.

- For entring and filing Record of *Nisi Prius* 2 s.
For recording a Default 2 s.
For recording the Tales 2 s.
For recording every Nonsuit, or Defendant's Verdict 4 s. 4 d.
For recording ever Plaintiff's Verdict 2 s.
For calling the Jury 2 s.
For reading the Record 2 s.
For reading every Deed, or other Exhibit 1 s.
For reading every Act of Parliament, or Charter 2 s.
For every Account taken in Court 2 s.
For every Order made in Court, each Party 4 s.
For the Copy thereof 1 s.
For the Judge's Hand on indorsing the Pannel, and drawing the Certificate 4 s.
For the return of every *Postea* 2 s.
If more than one Issue, for each Issue 1 s.
For a Copy of the Record of *Nisi Prius*, per Sheet 8 d.
For entring the Proclamation upon Tryals of Indictment and Information 2 s.
For drawing and Copy of the Notes of a Special Verdict 6 s. 8 d.
For drawing a Special Verdict, per Sheet 1 s.
For entring and ingrossing, per Sheet 1 s.
For Copy thereof for Plaintiff and Defendant, per Sheet 8 d.
For every private Verdict 6 s. 8 d.
For withdrawing a Juror, of each Side 1 s.

CHRIST'. HAWKINS, Cl' of Assises of the
Western Circuit.

Memorandum, The Fee of 13 s. 4 d. for the Copy
of every Indictment in Felony, with the Caption
of

CIRCUIT COMPANION. 581

of the Court, &c. and the Fees relating to a Pardon, *Certiorari*, Writ of Restitution, and *Noli Prosequi*, very rarely happen.

Out of the above Fees of *Nisi Prius*, some Part of them are allowed to Mr. *Higham*, his Deputy, or Associate, for executing the Office.

April 13, 1730, Presented to the House of Commons, by the said Mr. *Higham* (for the Clerk of Assise of the *Western Circuit*.)

T H E
T A B L E.

A CCESSARY. Indictment for a Misdemeanour in receiving stolen Goods as Accessary	100
Indictment against an Accessary to a Felony or Burglary before the Fact	101
— against Accessary in receiving the Principal Felon	102
— against an Accessary in receiving stolen Goods	102
The like; the Principal convicted in <i>Surry</i> , and the Accessary indicted in <i>Middlesex</i> .	103
Persons buying stolen Goods knowing them to be so, may be punished by Fine and Imprisonment as Accessary, tho' the Principal Felon is unknown	
Accessaries in Felony, how punished	104, &c.
A CQUITTAL. Record of an Acquittal of Felony on an Indictment for Felony at the Assises	21
Record of an Acquittal for Felony, where the Defendants are under Recognizance to appear	66
A L E-HOUSE. Indictment for keeping an Ale-house without a Licence	107
Statutes relating to Ale-houses	108
A RSON. Indictment of Felony for wilfully burning a House	108
A RSON.	



The T A B L E.

ARSON. To set Fire to any House, Barn, or Out-house, Hovel, &c. is Felony without Benefit of Clergy 109

ASSAULT. Indictment for a common Assault 109
 Indictment for assaulting a Constable in the Execution of his Office 110
 — for any Assault and false Imprisonment 111
 — for the like, and obtaining a Note for discharging 112
 — for an Assault with an intent to ravish 112
 — against Two Persons for assaulting a Woman, with an Intent that one of them should ravish her 113
 — for assaulting a Woman big with Child, so that she miscarried, &c. 114
 — for assaulting a Collector of a Turnpike in the Execution of his Office 114
 — for an Assault on a Boy, with an Intent to commit Sodomy 115
 — for an Assault with a drawn Sword, with an Intent to Murder 116
 — for assaulting the Driver of a Chaise, and with the Off-wheel of the Cart over-turning the Chaise 117
 — for an Assault and driving a Cart against a Chariot, and breaking the Back of one of the Horses that drew the Chariot 118
 — for an Assault, and beating out an Eye 119
 — for an Assault, and rescuing Goods distrained for Rent 120
 — for an Assault on a Game-keeper, in the Execution of his Duty 122
 — for feloniously assaulting a Privy-Councilor, in the Execution of his Office 124
 — for feloniously and maliciously assaulting a Person in the Highway, and spoiling, cutting, and defacing his Garment 125

The T A B L E.

ASSAULT. Indictment for a felonious Assault with an Intent to rob	126
Indictment for assaulting a Privy-Councillor, in the Execution of his Office in Council, with an Intent to kill, wound, &c. the Felon to suffer Death	125
— for assaulting with an Intent to cut, burn, or deface Garment, to be transported for se- ven Years.	125
— for assaulting with an Intent to rob, to be transported for seven Years	126
And such Convicts breaking Gaol, or returning within the seven Years to suffer Death	128
Indictment for assauling a Person, provoking him to fight, and sending him a Challenge	128
— for sending a Challenge in a Letter	129

ASSISE. Of the Courts on the Circuit	I
Practice of the Assises on the Crown Side	9
Business after the Assises	16
Fees usually taken by the Clerk of the Assise	549, 555, 565, 570, &c.

ASSOCIATE. Fees usually taken by the Associate	556, 557, 558, 562, 565, 570, 574, &c.
--	--

BAIL. Form of a Notice of putting in Bail	34
Indictment for feloniously personating another Person, and becoming Bail in his Name, be- fore a Commission appointed to take Bail in the County	131
Any Person, personating any other Person in be- ing Bail, whereby the Person so represented may be liable to the Payment of any Sum, for Debt or Damages, shall suffer Death	133
Bailiff, <i>see</i> Extortion.	

BANK.

The T A B L E.

BANKRUPTS. Indictment against a Bankrupt for not surrendring himself	139
Indictment against a Bankrupt for concealing his Effects	134
Bankrupt not surrendring himself, or imbezzling his Effects, Guilty of Felony	143
— Effects concealed by others, how punished	143
 BARRATRY. Indictment for being a common Barrator	 144
Justice of the Peace (at his Discretion) may bind Barrators to the Peace, or good Behaviour	144
 BASTARDY. Indictment for concealing the Death of a Bastard Child	 145
A Woman delivered of a Bastard-child born alive, and she endeavours privately to conceal the Death of it, to suffer Death, unless she can prove by one Witness, the Child was born alive	146
Bastard, <i>see</i> Conspiracy, Poor.	
 BIGAMY. Indictment for marrying a second Husband or Wife, the former being alive	 147
Bigamy is punishable with Death by the <i>Stat. 1 Jam. 1.</i> but as no mention is made of Clergy, it is generally allowed	148
Offenders may be proceeded against in the County where apprehended	148
Persons beyond Sea, or Persons absenting themselves for seven Years, not knowing the other to be alive, are not within the <i>Stat.</i>	149
 BLACK ACT. Indictment of Felony, for appearing armed, disguised, and stealing Deer in an inclosed Park	 150
BLACK	

The T A B L E.

BLACK ACT. Indictment for breaking down the Head of a Fish-pond, whereby the Fish were lost	151
Persons armed having their Faces blacked, or being otherwise disguised, who shall appear in any Forest, Park, &c. and unlawfully hunt or kill any Deer, &c. to suffer Death	151
Indictment for breaking down the Head or Mound of Fish-ponds, whereby the Fish are destroyed to suffer Death	152
— for maliciously cutting down two Elm-trees, that grew for Ornament	152
— for forcibly rescuing a Person from a Constable, &c.	153
Cutting down Trees for Ornament, Shelter, or Profit, to suffer Death	153
Indictment for forcibly rescuing from a Constable a Person charged with feloniously sending a Letter, without a Name, demanding Money	153
Those who rescue a Person, being lawfully in Custody, for any of the Offences in the Stat. 9. Geo. 1. c. 22. to suffer Death	155
Indictment for maliciously killing a Gelding	156
— for maliciously shooting at a Person in his Dwelling-house	157
If any Person shall maliciously shoot at any Person in any Dwelling-house, &c. he shall suffer Death	157
Indictment for sending a Letter, without a Name subscribed, demanding Money	158
Any Person sending a threatening Letter, demanding Money, &c. shall suffer Death	158
Indictment for procuring a Person, by promise of Money, to join in setting fire to a Hay-stack	159
A Speedy	

The T A B L E.

A Speedy Way for bringing Offenders to Justice against this Act	160
BUGGERY. Indictment for Buggery	163
— for Sodomy in <i>Arro</i> of a Girl	163
Buggery and Sodomy is punished in the same Manner as other Felonies, which are excluded Clergy.	164
BURGLARY, &c. Indictment of Felony for Burglary	163
Indictment for breaking a House in the Day-time (no Person being therein) and stealing Goods of above the Value of five Shillings	168
All Burglaries are Felony, without Benefit of Clergy	166
What a Burglarious Breaking or entring	167
Breaking a Church is Burglary	167
CERTIFICATE of a Judge of Assise, to entitle the Apprehenders of a House-breaker, to forty Pounds Reward	18
— of a Person's standing Indicted	46
— of a Conviction for Burglary	48
— to discharge a Person from Parish Officers &c.	49
Assignment of a Certificate (for Conviction of a Felon) by Indorsment	51
Form of a Certificate, where the Party is bound to Answer, and no Indictment exhibited	62
— where the Party neglects to prosecute, and give Evidence	63
— where the Party neglects to appear at the proper Session; but appears at a subsequent Session, and confesses the Indictment	64
CERTIORARI. How to obtain a Certiorari, to remove an Indictment	35, &c.

Challenge, *see* Assault.

CHURCH-

The TABLE.

CHURCH-YARD. Indictment for striking a Person in a Church-yard	168
Maliciously striking with any Weapon in a Church, or Church-yard; the Offender to have one of his Ears cut off: And if he have no Ears, to be burned in the Cheek	169
Indictment for digging up and carrying away a dead Body out of a Church-yard	170
Clerk of the Market, <i>see</i> Extortion.	
CLERK OF ARRAIGNS. Fees usually taken by the Clerk of Arraigns	558
CLERK OF INDICTMENTS. Fees usually taken by him	553
CLERK OF THE PEACE. Method of appointing the Office of a Clerk of the Peace	105, 107
His Oath	106
COINING. Indictment for High-Treason in coin- ing Shillings	171
Indictment for having in his Custody Goods for coining	174
— for hiding and concealing Coining-Tools	175
Coiners, their Councillors, Procurers, Aiders, and Abettors, being convict, guilty of High- Treason, and to suffer Death as Traytors	176 to 180
Persons bringing from beyond Sea, any false and counterfeit Coin, being current within this Realm, with an Intent to utter it by Mer- chandizing, &c. to suffer as above	173
Other Offences, <i>viz.</i> concealing Coining-Tools, making them, filing, Edging, &c.	175
Punishment on Persons convicted of counterfeit- ing a Half-penny, or Farthing, &c.	179
Coining, <i>see</i> Deceit.	

The TABLE.

COMPOUNDING FELONY. Indictment for it 180

CONSPIRACY. Indictment for conspiring, that one of the Prisoners should rob the other, with an Intent to charge the Hundred 182

Indictment for conspiring to charge a Man with a Rape, and preferring an Indictment against him for the same, with an Intent to extort Money from him 185

— for conspiring to charge a Man with receiving stolen Goods, and thereby extorting Money from him 187

— for conspiring to charge a Man with Sodomy, and thereby extorting Money from him 189

— for conspiring to charge a Man with a Robbery on the Highway 191

— for a Conspiracy amongst Workmen to raise their Wages 194

— for a Conspiracy and defrauding a Person of fifty Pounds under Pretence of procuring his Son an Office 197

— Conspiracy defined 199, 200

Among Artificers, Workmen, and Labourers to leave their Work unfinished, or to raise their Wages, to forfeit for the first offence 10*l.* for the second Offence 20*l.* &c. for the third Offence 40*l.* &c. 195, 199

Mr. Serjeant *Hawkins's* Opinion concerning Conspiracies 200

CONSTABLE. Indictment against a Constable for not presenting a Default of repairing a Highway 202

Indictment against a Constable for refusing to watch when duly summoned 203
In-

The T A B L E.

Indictment against a Headborough for refusing to convey a Person to <i>Bridewell</i> , committed by a Justice of the Peace	204
— against a High Constable for disobeying an Order of Sessions, for producing an Account of Monies received by him for the several County Rates	206
— against a Constable for not appointing a Watch, and absenting himself from Watching	209
— for refusing to accept the Office of High Constable	210
— for refusing to take the Oath of, and execute the Office of Petty Constable	211
Constables are appointed yearly, and if they refuse to serve, may be fined	213
Constable, <i>see</i> Assault, Escape, Extortion.	
CONVICTION. Record of Conviction of Felony and Robbery, where the Defendant is in Custody	69
Record of a Conviction of a Person for keeping a disorderly House	75
CORONER. Indictment against a Coroner for refusing to take an Inquisition	213
COTTAGES. Indictment for erecting a Cottage, and continuing the same, contrary to the Stat. 31 <i>Eliz.</i>	214
Penalties for erecting Cottages contrary to the Statute, &c.	217
CUSTOS ROTULORUM, Manner of appointing him	80
DEBTOR, <i>see</i> Perjury.	

DECEIT.

The T A B L E.

DECEIT. Indictment for defrauding a Person of Money, by Colour of a counterfeit Letter, and other false Tokens	217
Indictment for winning Money at an unlawful Game by throwing Dice	220
— for selling counterfeit <i>Dutch</i> Guilders for true ones	221
— for pledging a Brass Chain coloured with Gold for, and as real Gold	222
— for uttering a counterfeit Half-guinea	223
— for uttering a counterfeit Six-pence and having another found in his Custody	224
— for procuring Guineas filed and diminished, to be uttered as good Guineas	225
— for obtaining a Note into his Hand under Pretence of inspecting the same, and tearing and cancelling it	226
— for indorsing away a Note after Payment	227
— against a Pensioner of <i>Chelsea College</i> , for defrauding the King of Money by procuring himself to be admitted an Out-pensioner of the same College, as of another Regiment, under Pretence that he was not otherwise provided for	229
— for obtaining a <i>Noli Prosequi</i> by Means of a forged Paper purporting to be a Request under the Prosecutor's Hand to the Attorney General, to grant a <i>Noli Prosequi</i>	232
— for defrauding a Person of Money by counterfeiting the Post-Mark on a Piece of Paper, folded up like a Letter	237
— for defrauding a Person of Money, under Pretence of procuring a Licence to sell Ale	238
— For false Pretences	239
— Another used in <i>London</i>	241
— for defrauding a Person of Money by false Tokens, the Offender to sit on the Pillory, be fined, &c.	239
Persons	

The T A B L E.

Persons selling counterfeit Metal for Gold, indictable	177
Person uttering counterfeit Money, knowing it to be so, indictable, where the uttering was	177
The Punishment for Deceit and Cozenages, Fraud, &c. is Fine and Imprisonment, and sometimes Pillory	219
ESCAPE. Indictment against a Constable for negligently permitting one committed for Felony to Escape	
— against a Constable for negligently permitting one in Custody for a Misdemeanor to Escape	241
— against a Gaoler for permitting a Prisoner to Escape who was brought by <i>Habeas Corpus</i> from another Gaol	243
Penalties for suffering Escapes for various Crimes	245
	247, 248
ESCHEATS. When to be delivered	65
EXTORTION. Indictment against a Coroner for Extortion	
Indictment against a Clerk of a Market for Extortion	249
— against a Headborough for Extortion	250
— against a Constable for extorting Money from a Person in Custody on a Bench Warrant, to let her go without carrying her before a Justice	251
— against a Tipstaff for Extortion	252
— against a Marshal's Court Officer for Extortion	253
Extortion at Common Law is punishable by Fine and Imprisonment, and by Stat. 3 Ed. 1. Officers of Justice are to render treble Value.	254
	255
	FALSE

The T A B L E.

FALSE TOKENS, *see* Deceit.

FORCIBLE ENTRY. Indictment for a forcible Entry at Common Law 255
 Indictment for a forcible Entry and Expulsion at the Common Law 256
 — for a forcible Entry and Detainer upon the Statute 257
 By Stat. 15 *Rich.* 2. c. 2. all Persons convicted of forcible Entries to be committed to the next Gaol until they have made Fine and Ransome 258

FORESTALLER. Indictment against a Forestaller 260
 Indictment against a Reqrator 262
 At Common Law, Persons guilty of forestalling upon Indictment found, are liable to Fine and Imprisonment 262
 Indictment against an Ingrosser 263
 Forestallers, Reqrators, and Ingrossers, Punishment by Stat. 5 and 6 *Ed.* 6. c. 14. 263

FORGERY. Indictment for forging a Writ of *Fieri Facias*, and thereby taking a Person's Goods in Execution 265
 Indictment for forging an Indenture of Bargain and Sale, and a Release of a Freehold; on the Stat. 5 *Eliz.* c. 14. 268
 — for forging a Bond, and publishing the same 285
 — for forging and publishing an Acceptance on a Bill of Exchange 287
 — for altering a Warrant or Order for Payment of *South Sea* Annuity, and publishing it, knowing it to be altered and forged 289
 — for counterfeiting and forging a Stamp, resembling the Stamp used by the King's Officers, 291

The T A B L E.

ficers, for marking and stamping Hides and Skins, &c.	296
Indictment for forging and publishing a Bill of Exchange, and the Acceptance and Indorsement	300
Altering or writing cross the Face of a Bank Note is altering an Indorsement within the Statute. See <i>Strange's Rep.</i> 18, 19.	
Person forging Writ of <i>Fieri Facias</i> fined 100 <i>l.</i> and ordered to be put on the Pillory	267
By Stat. 5 <i>Eliz.</i> c. 14. §. 2. Person forging Deeds, &c. to be set on the Pillory, have both his Ears cut off, and also his Nostrils slit, and cut and seared with a hot Iron, &c.	282
Second Offence to suffer Death	284
Forgery, Fraud, <i>see</i> Deceit.	
GAMING. Indictment for winning above 10 <i>l.</i> at Cards at one Time and Setting	311
Indictment for the like at Dice	315
Bonds given for Money won at Gaming to be void	316
Persons convicted of Fraud and Gaming to forfeit five times the Money won	316
Persons challenging or fighting on Account of Money won at Play, to forfeit Goods and suffer two Years Imprisonment	317
Gaming, <i>see</i> Deceit, Lotteries.	
GAOL DELIVERY, Precept for it	6
Caption of a Session of Gaol Delivery	58
Gaoler, <i>see</i> Escape, Prison.	
GUN. Indictment for keeping one to destroy Game	318
Highway, Hogs, <i>see</i> Constable, Nuisance.	
HORSES. Indictment of Felony for stealing a Gelding.	319
HOUSE-	

The T A B L E.

HOUSE-BREAKING. Indictment for breaking a House in the Day-time, with an Intent to steal 320

HOUSES. Indictment of Felony for stealing above the Value of 40s. in a Dwelling House 321
Persons stealing Money or Goods, above the Value of 40s. to suffer Death 321

IMBEZZLEMENT. Indictment for inticing a Servant to imbezzle his Master's Goods 322
This Offence is punishable by Fine and Imprisonment in the House of Correction to hard Labour 323

INDICTMENTS, Doctrine thereof 108 to 125
—— Clerk of, his Fees 577, &c.

INGROSSER, *see* FORESTALLER.

INMATES. Indictment for receiving and lodging Inmates 323
Cottages suffering Inmates, to forfeit to the Lord of the Leet ten Shillings for every Month 324

JUDGE'S CLERK and STEWARD.

Fees usually taken by this Officer 548

JUDGE'S CRYER.

Office of the Judge's Cryer, on the Circuit 531
Fees usually taken by the Cryer 546

JUDOE'S MARSHAL.

Fees usually taken by him in the Circuits, &c. 544

The T A B L E.

LARCENY. Indictment of Grand Larceny	325
Indictment for stealing privately from the Person	329
Punishments for picking a Pocket and cutting a Purse, and other Larcenies	329
LEAD. Indictment for unlawfully receiving stolen Lead	330
Indictment of Felony for stealing Lead fixed to dwelling House	332
— against the Aider and Assister	333
— against the Receiver	333
Persons stealing Lead, and the Aiders, Abettors, and Assisters, to be transported for seven Years. See Stat. 4 Geo. 2. c. 32. 29 Geo. 2. c. 30.	531—533
LIBELS. Indictment for printing and publishing a Libel against the Lords Spiritual and Temporal and Commons	334
Indictment for sending a libellous Letter	336
LINEN. Indictment for stealing Linen from a Bleaching-Croft	338
Persons stealing Linen by Day or Night from Bleaching-Crofts, &c. above the Value of ten Shillings, to be transported for fourteen Years.	339
LODGERS. Indictment of Felony for stealing Goods, lett by Contract to be used with a Lodging	340
Lodgers stealing Goods, lett with the Lodgings, guilty of Larceny and Felony	340
LOTTERIES. Indictment for setting up a Lottery	341
Persons	

The T A B L E.

- Persons setting up Lotteries, &c. to forfeit 500*l*.
by Stat. 10 and 11 *Will.* 3. c. 17. 342
- Setting up Sales for Houses, Lands, &c. by way
of Lottery, or by Lots, Tickets, Numbers,
or Figures; or who shall advertise Proposals
or Schemes, for small Sums, to forfeit 500*l*.
by Stat. 8 *Geo.* 1. and the Adventurers to for-
feit double Sums contributed 342, 343
- MAIMING.** Indictment for Felony by slitting a
Nose; and against the Aider and Abettor 344
- Persons of Malice aforethought lying in wait,
to cut out or disable the Tongue, put out an
Eye, slit the Nose, &c. with Intention to
maim and disfigure, to suffer Death 345
- MARRIAGE.** Indictment of Felony for solemniz-
ing Matrimony without Licence, &c. 346
- MURDER.** Indictment of Felony for Murder, by
stabbing with a Knife 347
- Indictment for Manslaughter, by stabbing the
Party slain, not having striken the Slayer first,
nor having any Weapon drawn 348
- for Murder, by shooting with a Pistol and
against the Aiders and Assistants 352
- for Murder, when the Stroke is given in
one County and the Party dies in another 354
- Note,* Tho' but one Person gives the Stroke, all
present, aiding and assisting, are equally cul-
pable, and deemed Principals in Murder 354
- Different Circumstances of Murder, &c. 356, &c.
- Persons wounded or poisoned in one County, and
die of the same in another, the Offender may
be Indicted where the Death happened 356
- NAVAL STORES.** Indictment for having naval
Stores in one's Custody 361

The T A B L E.

Persons making any Stores, marked as usually for his Majesty's Navy or Ordinance, to for- feit such Goods and 200 <i>l</i> .	363
This Penalty mitigated by Stat. 9 <i>Geo.</i> 1. c. 8. and corporal Punishment inflicted	363
NOTES. Indictment of Felony for stealing a Pro- missory Note	
By Stat. 2 <i>Geo.</i> 2. c. 25. Persons stealing Notes, Bonds, Debentures, &c. for Payment of Mo- ney, the Property of other Persons; the Of- fender to suffer the same Punishment, as for stealing Goods of the like Value	364 365
NOTICE of Trial of a Traverse	39
Form of the Affidavit of serving Notice	40
Notice of pleading Guilty	43
NUISANCE. Indictment against a Butcher for using his Shop as a Slaughter-House, in a publick Market	
Indictment for keeping a disorderly House	366 367
— for digging a Hole in the King's Highway	369
— against Nightmen, for laying Soil in the Street	370 370
— for placing empty Drays in a public Street, whereby the Passage was obstructed	370
— for digging a Horse Pond, and erecting a Cistern in a common Passage	371 371
— against a Sabbath-breaker, in keeping an open Shop	373 373
— for placing two Carts with Peas in a pub- lick Street	374 374
— for placing two Cart-loads of Dirt in a common Foot-way	375 375
— for keeping Hogs near a publick Street	376
— for erecting a Furnace with a Boiler, for the boiling of Offals	377 377
	Indictment

The TABLE.

Indictment for boiling Bullocks Blood for the making Colours	378
— for stopping a Water-course, whereby the Highway was overflowed	379
— against Scavengers for not cleansing the Streets	380
— against Rakers for neglecting to cleanse the Streets	381
— against the Inhabitants of a Parish for not repairing an antient Horse and Foot-way	382
— against the Inhabitants of a Parish for not repairing a common Highway	385
— a Presentment on the View of a Justice of Peace for not repairing a Highway	386
— for continuing a Hedge erected by Persons unknown, a-cross a Park and Prime-Way	384
Feme Covert is punishable for keeping a disorderly House as much as if she were Sole	366
Offences punished by Fine and Imprisonment, &c. at the Discretion of the Court	366
Butchers, &c. using their Trade on the Lords Day, are fineable, and to be doubled for the second Offence, the third Offence double the Second, &c.	373
Scavengers to cleanse the Streets of Filth, and cause it to be carried away upon pain to forfeit 40s. for every Offence or Neglect	375
Description of various Nuisances, and who punishable for them.	388
OYER and TERMINER, Precept for	5
Caption of a Session of Oyer and Terminer	57
PERJURY. Indictment for Perjury in a Debtor swearing himself a Fugitive	394

The T A B L E.

Indictment of Perjury in an Oath made before a Justice of Peace in Relation to a Breach of the Peace	397
— for Perjury upon hearing an Appeal at the Quarter Sessions against an Order of Adjudication of Bastardy	401
— for Perjury in an Affidavit before a Judge, C. B. in order to hold a Man to Bail	406
— for Perjury in an Affidavit made in the <i>Marshalsea</i> Court	412
— for Perjury in an Answer in <i>Chancery</i>	413
— for Perjury on the Trial of an Issue at the Sittings at <i>Westminster</i>	423
Perjury in its various Circumstances described, and the Punishments inflicted on the Offenders	428
Subornation of Perjury, Indictment for it	434
 PIRACY. Indictment of Felony for Piracy, in causing a Revolt in a Ship, and running away with the Ship, her Apparel, Tackle, and Goods	
	439
Piracies to be tried by the King's Commissions directed to the Admiral, &c. under the King's Great Seal, in the same Manner, as if the Offences were done upon Land	441
And by Stat. 11 and 12 W. 3. c. 7. which was made perpetual by the Stat. 6 Geo. 1. c. 19. all Piracies in the Admiral's Jurisdiction may be tried at Sea, and Felons to suffer Death, &c.	442
 PLEAS of Misnomer	 47
 POISON. Indictment against a Servant for putting Poison into a Tea-Kettle, with an Intent to poison her Master	 444—446

POOR.

The T A B L E.

POOR. Indictment for bringing a poor Woman into a Parish, when she had no Settlement, and where she instantly died, whereby the Parish was put to the Expence of burying her

447

Indictment for Lodging an Inmate, who was delivered of a Bastard-child, which became chargeable to the Parish

448

— for Lodging a poor Person, who became chargeable to the Parish

449

PRISON. Indictment for assisting a Prisoner to escape out of Prison, charged with a Forfeiture to the King upon an *Exchequer* Process

450

Any Person aiding or assisting any Prisoner to attempt to escape, or any Persons conveying into Prison any Disguise, or Instrument to facilitate the Escape of Prisoners, to be transported for seven Years

453

Persons assisting any Person to Escape from Constable, &c. the like Punishment

453

Prison, *see* Escape.

QUIETUS. Method of obtaining a *Quietus* for an Estreated Recognizance

61

Privy Counsellor, *see* Assault.

Rakers *see* Nuisance.

RAPE. Indictment of Felony for ravishing a Woman

455

Rape is made Felony and Clergy taken away upon Conviction, &c. by the Stat. 18 *Eliz.*

456

Declaration of Laws, what is a Rape

456

All Persons assisting may be indicted as Principals

456

Rape, *see* Assault, Conspiracy.

RECOG.

The T A B L E.

RECOGNIZANCE. Record of the Discharge of a Recognizance at a General Quarter Sessions of the Peace	73
Record, <i>see</i> Acquittal, Conviction.	
Regrator, <i>see</i> Forestaller.	
RESCUE. Indictment for a Rescue from a Mar- shal's Court Officer	457
Indictment for rescuing a Person taken on a Bill of <i>Middlesex</i>	459
— for rescuing Goods distrained for Rent	461
Definition of Rescues, and Laws thereof	462
Rescue, <i>see</i> Black Act, Prison, Riot.	
RIOT. Indictment for a Riot and Assault	464
Indictment for a Riot committed by several Footmen at <i>Drury-lane</i> Play-house, when the Prince and Princess of <i>Wales</i> were there	465
— for a Riot, and endeavouring to Rescue two Persons apprehended for cutting down Turnpikes	467
— of Felony for a Riot by above the Num- ber of Twelve Persons, not dispersing within an Hour after the Proclamation read	470
Definition and Description of a Riot	468
Riots punishable by Fine and Imprisonment, and if enormous, Pillory, &c.	468
Rioters not departing within an Hour after Pro- clamation read, punished with Death	472
ROBBERY. Indictment of Felony for Robbery on the Highway	473
Robbing and putting in Fear, if ever so little Money or Goods be taken, the Offender guilty of Death	474
Indictment for a Robbery from a Person violently in a Dwelling-house,	476
Different	

The T A B L E.

Different Kinds of Robbery and Circumstances attending it described, and how punished

474, &c.

Robbery, *see* Assault.

SACRILEGE. Indictment of Felony for Sacrilege in stealing Goods out of a Church 477

Sacrilege in robbing a Church, &c. Death in the Principal, and Felony as to all Accessaries 477

And by Stat. 3 & 4 W. & M. if attended with Burglary, Clergy excluded for the Accessaries 478

Scavengers, *see* Nuisance.

SEDITIONOUS WORDS. Indictment for seditious Words against the King 478, 480

Contempts against the King's Person and Government, punishable with Fine and Imprisonment, and sometimes with the Pillory 481

SERGE. Indictment of Felony for entering a Dwelling-house, with an Intent to cut the Serge in the Loom, and destroying the same 481

Persons by Day and Night breaking into any House or Shop, or enter by Force, with an Intent to cut or destroy any Serge, or other Woollen Goods in the Loom, &c. to suffer Death 482

Other Crimes relating thereto how punished by the Stat. 15 & 16 Geo. 2. c. 34. 483—485

SERVANTS. Indictment of Felony against a Servant for embezzling his Master's Goods delivered to him to keep for his Master's Use 485

Servants, having Money, Jewels, Plate, &c. intrusted and delivered into their Custody by their Masters and Mistresses, and after such Delivery

The T A B L E.

Delivery withdraw themselves, with an Intent
to defraud them, guilty of Felony by Stat. 21.
Hen. 8. 486

This Act not to extend to Apprentices, nor Per-
sons within the Age of eighteen Years 487
Servants, *see* Imbezzlement, Poison:

SESSIONS. Practice of the General and Quarter
Sessions of the Peace 25
Precept for summoning a Session of the Peace 25
What a Session is 26
Fees of the several Officers on the Circuit
544, &c.

SHEEP. Indictment of Felony for killing Sheep,
with an Intent to steal the Carcasses 487
Persons who feloniously steal or drive away Sheep
or other Cattle, with an Intent to kill or steal
the Carcasses, or any Part thereof, to suffer
Death 488, 489
And by Stat. 15 & 16 *Geo. 2. c. 34.* the same
Punishment to extend to Persons killing any
Bull, Cow, Ox, Steer, &c. 490

SHERIFF. Fees usually taken by the Sheriff 542

SHIPS. Indictment of Felony for wilfully burning
and destroying a Ship 490
By Stat. 12 *Ann.* Any Persons making or assist-
ing in making, any Hole in a Ship or Vessel
in Distress, tending to the Loss of the said
Ship, he shall suffer Death 491
And by the Stat. 4 *Geo. 1.* If any Owner, Cap-
tain, or Master, &c. wilfully cast away, burn,
or destroy the Ship, to the Prejudice of any
Person that shall under-write any Policy, &c.
to suffer the same Punishment 491
Indictment for stealing to the Value of 40*s.* in
a Ship, &c. 492
By

The T A B L E.

By Stat. 24 *Geo. 2. c. 45.* Persons shall be excluded Benefit of Clergy 493

SHOPS. Indictment of Felony for stealing above the Value of 5*s.* out of a Shop, Warehouse, Coach-house, Stable, &c. 493

Stealing out of a Shop, &c. any Goods privately or feloniously, of five Shillings Value; guilty of Death 494

Note, The stolen Goods must be the Property of the Owner of the Shop 494

SMUGGLERS. Indictment of Felony for assembling with others armed with offensive Weapons, in order to assist in the running uncustomed Goods 495

By the Stat. 19 *Geo. 2. c. 34.* Persons to the Number of three or more, armed with Fire Arms, or other unlawful Weapons, in order to assist in running uncustomed Goods, Exportation of Wool, &c. to suffer Death 498

Other Particulars relating to Smugglers 499--502
Sodomy, *see* Assault, Buggery.

SOLDIERS. Indictment of Felony for hiring and retaining a Person to serve the *French* King as a Soldier 502

Persons inlisting themselves or procuring others to inlist, or hire, or retain any Person being a Subject of his Majesty, &c. with an Intent to go beyond the Seas into the Service of any Foreign Prince, &c. to suffer Death 504

Persons inveigled or inticed to go abroad discovering upon Oath before any Justice of the Peace in fourteen Days by whom he was so inlisted to be indemnified, &c. 505

The T A B L E.

STOLEN GOODS. Indictment of Felony for receiving Money to help a Person to stolen Goods, and not apprehending the Felon 505

By Stat. 4 Geo. 1. c. 11. Any Person taking Money, or Reward, under Pretence of helping any Person to stolen Goods, unless such Person do apprehend the Felon, to suffer the same Punishment as the Person who stole the said Goods, &c. 506

Stolen Goods, *see* Accessary.

Subornation of Perjury, *see* Perjury.

SUBPOENA for Witnesses to give Evidence at the Sessions of the Peace 46

TRADE. Indictment for exercising a Trade, not having served an Apprenticeship 507

By the Stat. 5 Eliz. Any Person who shall set up, occupy, use, or exercise any Art, Mystery, or manual Occupation, unless he hath served seven Years Apprentice thereto; shall forfeit forty Shillings for every Month 508

TRANSPORTATION. Indictment of Felony for returning from Transportation 508

Offenders returning from Transportation within the Time they were transported for, to suffer Death 510

Apprehending such Offenders and prosecuting to Conviction, entitled to a Reward of twenty Pounds, &c. 511

TREASON. Indictment for High Treason, for endeavouring to withdraw a Subject to the *Romish* Religion 511

*Administering
Sacraments as
a Romish
priest, &c.*

Indictment of Petit Treason against a Woman for poisoning her Husband 514

The T A B L E.

See Title Coin.

By Stat. 23 *Eliz.* It shall be Treason to be reconciled, or withdrawn to the *Romish* Religion

513

Note, This Statute does not mention the Queen's Heirs, &c.

513

Description of the various Circumstances of Petty Treason, and their Punishment

515

Treason, *see* Coining.

TURNPIKE. Indictment of Felony for cutting down and destroying a Turnpike-gate

517

By the Stat. 8 *Geo.* 2. Persons by Day or by Night wilfully and maliciously pulling down, plucking up, any Turnpike, &c. set up or erected to prevent Passengers from passing by without paying Toll, being lawfully convicted, shall suffer Death

518

USURY. Indictment for taking more than five *per Cent.* Usury

519

Description of Usury, and usurious Contracts, and the Laws thereof

520, &c.

WARRANT. Form of a Bench Warrant on an Indictment found

45

WINDOWS. Indictment for breaking Windows

526

Rioters are punishable by Imprisonment, &c.

527

WOMEN. Indictment of Felony for taking a Woman against her Will, and marrying her (she having Substance in moveable Goods, Lands, and Tenements, &c.) and being her Father's Heir

527

F I N I S.

LAW BOOKS lately published, and sold by
J. WORRALL.

F O L I O.

NEW Abridgment of the Law, 4 Vol. by a Gentleman of the Middle Temple (*Matth. Bacon, Esq;*) the three first Volumes are reprinted with many Additions, Notes and References.

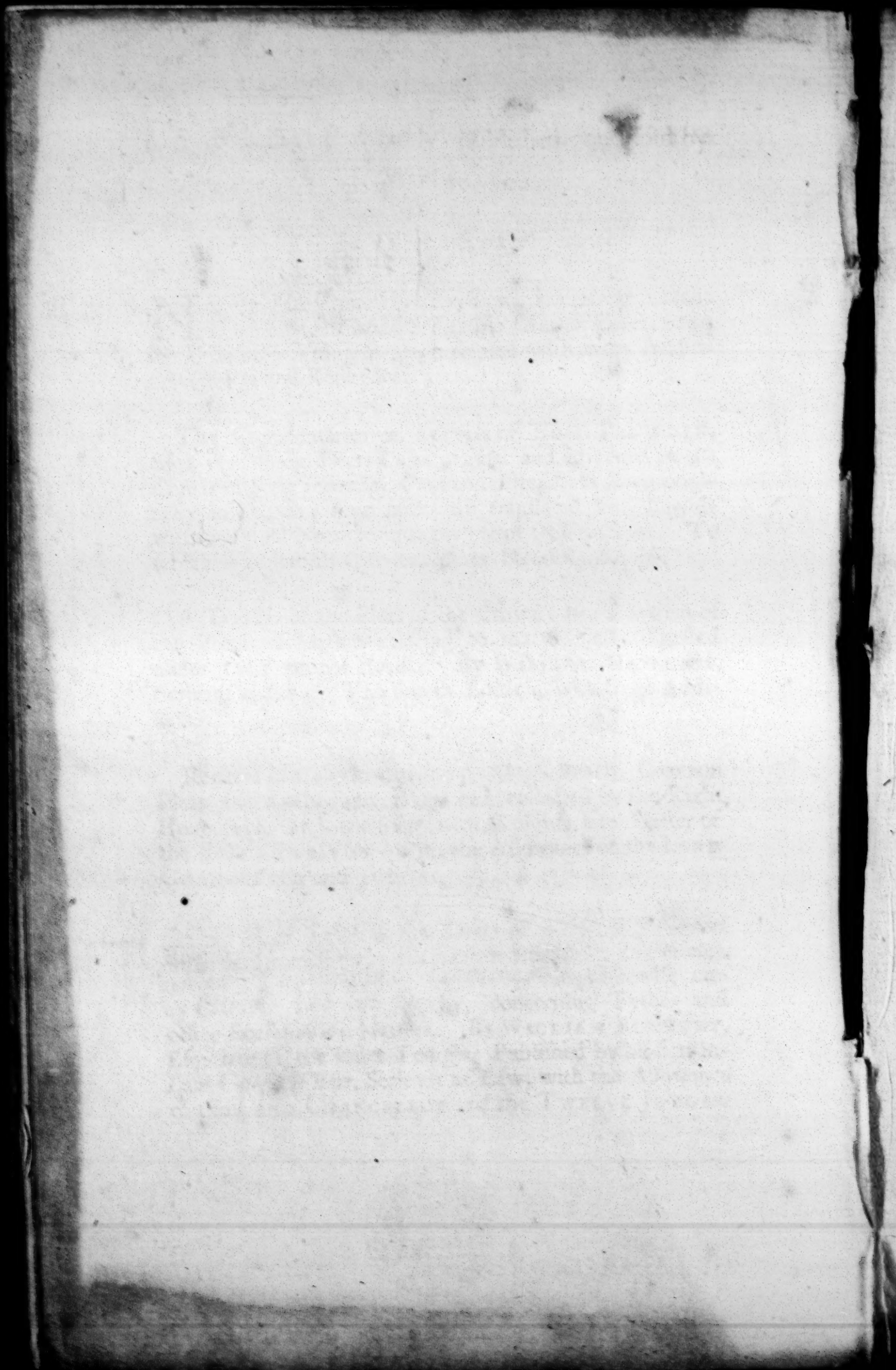
The Commentaries or Reports of EDM. FLOWDEN, Esq; containing divers Cases argued and adjudged in the Courts of King's Bench, Common Pleas. Written originally in French; now faithfully translated into *English*, with marginal Notes, and many useful Observations. To which is added his Queries, never before in *English*.

A Treatise of the Pleas of the Crown: or, a System of the Principal Matters relating to that Subject, digested under their proper Heads. By WILLIAM HAWKINS, Serjeant at Law. The fourth Edition, with large Additions.

Reports of Cases in Chancery, King's Bench, Common Pleas and Exchequer, taken and collected by the Right Honourable Sir JOHN STRANGE, Knight, late Master of the Rolls. Two Vols. With the Allowance of the LORD CHANCELLOR and JUDGES.

Reports of Cases in the Court of Exchequer, in the Reigns of King *George* the First and Second; containing, not only Cases concerning the Revenue, but likewise many Cases in Law and Equity, concerning Tythes and other Ecclesiastical Matters. By WILLIAM BUNBURY, Esq; late of the Inner Temple. Published by his Son-in-Law *George Wilson*, Serjeant at Law, with the Allowance of the LORD CHANCELLOR and the TWELVE JUDGES.





10
a